

FEDERAL REGISTER

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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 25—FEDERAL EMPLOYEES PAY REGULATIONS

SUBPART B—PERIODIC WITHIN-GRADE SALARY ADVANCEMENT REGULATIONS

1. In § 25.231 paragraph (b) is amended; paragraphs (c), (d), (e), and (f) are redesignated as paragraphs (d), (e), (f), and (g); and a new paragraph (c) is added. As amended, § 25.231 will be effective August 7, 1949, except paragraph (e), which is effective as of June 24, 1948. Section 25.231, as amended, will read as follows:

§ 25.231 *Service to be credited.* In computing the periods of service required for within-grade salary advancements there shall be credited to such service:

(a) Continuous paid civilian employment in any branch (legislative, executive, or judicial) of the Federal Government, or in the municipal government of the District of Columbia.

(b) Service prior to a period of absence not in excess of 52 calendar weeks due to leave without pay, furlough, or separation, except where such absence was due to disqualification, abandonment of position, suspension, legal incompetence, inefficiency, or separation for cause on charges of misconduct, delinquency or for other reasons. No period in a non-pay status or of separation from the rolls is creditable.

(c) The period of time absent from duty during which disability compensation was received under the Employees' Compensation Act, not to exceed the amount of time necessary to complete one waiting period, creditable only if the employee returns to duty.

(d) Service in the armed forces, in the merchant marine, or on war transfer subject to the following conditions: The employee must have (1) left his position to enter the armed forces or the merchant marine, or to comply with a war transfer, (2) been separated under honorable conditions from active duty in the armed forces, or have received a certificate of satisfactory service in the mer-

chant marine, or have a satisfactory record on war transfer, and (3) been restored, reemployed, or reinstated in any permanent position within the scope of the compensation schedules fixed by the Classification Act of 1923, as amended, under regulations of the Commission which provide for mandatory restoration or reemployment, or the provisions of any law providing for mandatory restoration or reemployment, or any other administrative procedure having a similar purpose with respect to employees not subject to civil service rules and regulations. Any person entitled to be credited with service under this paragraph shall also be entitled to credit not more than twelve, eighteen, or thirty months, as the case may be, for civilian employment prior to leaving his position to enter the armed forces or the merchant marine, or to comply with a war transfer.

(e) Any person who has mandatory restoration rights under section 9 of the Selective Service Act of 1948, shall be restored in such manner as to give him credit for any within-grade salary advancements to which he would have been entitled if he had continued in civilian employment continuously from the time of his entering the armed forces until the time of his restoration to such employment.

(f) In the case of an employee whose name appeared on a list of eligibles between May 1, 1940 and March 16, 1942, and who, after meeting necessary conditions, received probational appointment under the provisions of any Executive order or regulations of the Commission covering situations in which an eligible lost his opportunity for probational appointment because of military service in World War II, time elapsing since the earliest date on which an eligible standing lower on the same list of eligibles received a probational appointment therefrom.

(g) In the case of an employee who applied for restoration, reappointment or reemployment within the period, provided by statute or regulation, of 90 calendar days after honorable discharge from the military service or from hospitalization continuing for a period of not

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more than one year after such discharge, and who has been restored, reappointed or reemployed as a result of such application, the total period of time elapsing between the termination of military service or release from hospitalization continuing thereafter, and entrance on duty in his civilian position if such period does not exceed 120 calendar days. However, if entrance on civilian duty has been delayed so that such period is in excess of 120 calendar days, only the first 120 calendar days of such period may be credited. This paragraph shall be effective December 5, 1946, and shall apply to all computations of within-grade salary increases made after that date.

In the case of an employee exercising reemployment rights under the terms of Executive Order No. 9711 April 11, 1946 (3 CFR 1946 Supp.), not to exceed a total period of 120 calendar days of time elapsing between release from military service and acceptance of civilian employment in occupied territories under the Military Government authorities of the United States, and time elapsing between termination of such employment and the exercise of his reemployment rights in accordance with Executive Order No. 9711. (Sec. 8, 54 Stat. 890; sec. 1, 60 Stat. 749; sec. 9, 62 Stat. 614; 5 U. S. C. 645a, 50 U. S. C. App. 308, 459)

2. The amendment of the last unnumbered paragraph in § 25.241 which appeared in the FEDERAL REGISTER on June 7, 1949 (14 F. R. 3722) is to be effective August 7, 1949. Section 25.241, as amended, reads as follows:

§ 25.241 *Eligibility requirements and effective date.* Officers and employees to whom this subpart applies shall be advanced in compensation successively to the next higher rate within the grade at the beginning of the next pay period (including July 1, 1945) following the completion of (1) each twelve months of service if such officers or employees are in grades in which the compensation increments are less than \$200 per annum or (2) each eighteen months of service if such officers or employees are in grades in which the compensation increments are \$200 or more, subject to the following conditions:

(a) That no equivalent increase in compensation from any cause was received during such period;

(b) That an officer or employee shall not be advanced unless his current efficiency rating is "Good" or better than "Good";

(c) That the service and conduct of such officer or employee are certified by the head of the department or independent establishment or agency, or Government-owned or controlled corporation, or such official as he may designate, as being otherwise satisfactory.

This certificate of otherwise satisfactory service and conduct shall constitute an affirmative statement that responsible officials have reviewed the service and conduct of the employee and find that he definitely merits the advancement.

Where a within-grade advancement became due on or after July 1, 1945, and was delayed beyond its effective date, solely through administrative error or

oversight of the agency in approving and recording the required efficiency rating or executing the certificate of satisfactory service and conduct, or both, the agency shall approve and record the rating or execute the certificate, or both, as of the date or dates such administrative actions should have been completed, and the advancement shall be made effective as of the date it would have been due if there had been no administrative error or oversight.

If an employee is entitled to credit prior service in accordance with § 25.231 (b) and has had any "non-service" during his time period of twelve or eighteen months, he must serve in a pay status an additional period of time equivalent to the total period or periods of non-service to complete the service required for advancement.

(Sec. 605, 59 Stat. 304; 5 U. S. C. 945)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] H. B. MITCHELL,
President.

[F. R. Doc. 49-6123; Filed, July 26, 1949; 8:45 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter C—Loans, Purchases, and Other Operations

[1949 C. C. C. Grain Sorghums Bulletin 1, Supp. 1]

PART 621—GRAIN SORGHUMS

SUBPART—1949 GRAIN SORGHUMS LOAN AND PURCHASE AGREEMENT PROGRAM

1949 CROP GRAIN SORGHUMS PRICE SUPPORT PROGRAM BULLETIN

The regulations issued by Commodity Credit Corporation and the Production and Marketing Administration published in 14 F. R. 2969, governing the making of loans and containing the requirements of the purchase agreement program on grain sorghums produced in 1949 are hereby supplemented as follows:

§ 621.124 *Support rates*—(a) *Support rates at terminal markets.* Support rates per 100 pounds for grain sorghums grading U. S. No. 2 or better, stored in eligible warehouse storage at the following terminal markets, shall be as follows:

Terminal market	Support rate per 100 lbs. for U. S. No. 2 or better
Terminal markets used in determining county support rates:	
Kansas City, Mo., and Omaha, Nebr.	\$2.56
Galveston, Tex.	2.63
St. Louis, Mo., and Memphis, Tenn.	2.74
San Francisco and Los Angeles, Calif.	2.88
Terminal markets determined for storage only:	
Sioux City, Iowa	2.56
New Orleans, La., and Houston, Tex.	2.63

For the full support rates shown in the above schedule, the grain sorghums must have been shipped by rail at the domestic interstate freight rate. The rate at the designated terminal market will be reduced by the difference between the freight paid and the domestic interstate freight rate, on any grain sorghums shipped at other than such freight rate.

The foregoing schedule of rates applies to grain sorghums delivered to any designated terminal market in carload lots which have been shipped by rail from a country shipping point to one of the designated terminal markets, as evidenced by paid freight bills duly registered for transit privileges; *Provided*, That in the event the amount of paid-in freight is insufficient to guarantee minimum proportional freight rate from the terminal market, there shall be deducted from the applicable terminal rate the difference between the amount of freight actually paid in and the amount required to be paid in to guarantee outbound movement at the minimum proportional freight rate. The warehouse receipts must be accompanied by registered freight bills, or by (1) a statement as indicated below signed by the warehouseman, (2) a certificate of the warehouseman containing such information, or (3) such forms as may hereafter be approved by CCC.

FREIGHT CERTIFICATE FOR TERMINALS

The grain sorghums represented by attached warehouse receipt No. _____ were received by rail freight from _____

(Town) _____ point of origin
(County) _____ (State) _____
as evidenced by freight bill described as follows:

Way bill, date _____
No. _____
Car No. _____
Initial _____
Freight bill, date _____
No. _____
Carrier _____
Transit wt. _____
Freight rate in _____
Amt. collected _____
Number unused transit stops _____

The above-described paid freight bill has been officially registered for transit and will be held in accordance with the provisions of paragraph 19 of the Uniform Grain Storage Agreement.

(Warehouseman's signature) _____

(Address) _____

(Date of signature) _____

Grain sorghums stored at a designated terminal market (including trucked-in grain sorghums) for which neither registered freight bills nor such freight certificates are presented shall have a support rate equal to the county rate for the county in which the grain sorghums are stored, except that the support rate for grain sorghums stored in St. Louis, Missouri, shall be the support rate established for St. Louis County, Missouri.

(b) *Support rates at other than designated terminal points.* CCC will determine the support rate for grain sorghums in storage on the farm or in country

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warehouses by deducting from the designated terminal support rate an amount equal to (1) the receiving and loading-out charges computed in accordance with the applicable schedule of rates of the Uniform Grain Storage Agreement (CCC Form H, Revised) for the 1949 crop plus (2) the average all-rail interstate freight rate (plus tax) from representative shipping points in the county to the appropriate terminal market.

Upon request by the county committee, the PMA commodity office will determine the support rate for grain sorghums stored in approved warehouses (other than those situated in the designated terminal markets) which are shipped by rail from country shipping points, by deducting from the appropriate designated terminal market rate an amount equal to the transit balance of the through freight from point of origin for such grain sorghums to such terminal market, plus freight tax on such transit balance; *Provided*, That in the case of grain sorghums stored at any railroad transit point, taking a penalty by reason of out-of-line movement, or for any other reason, to the appropriate designated market, there shall be added to such transit balance an amount equal to any out-of-line costs or other costs incurred in storing grain sorghums in such position.

The warehouse receipts, in addition to other required documents, must be accompanied by the original paid freight bills duly registered for transit privileges or by a statement in the following form signed by the warehouseman, or a warehouseman's supplemental certificate containing such information:

FREIGHT CERTIFICATE FOR OTHER THAN TERMINAL POINTS

The grain sorghums represented by attached warehouse receipt No. _____ were received by rail freight from _____

(Town)

(County)

(State)

point of origin, as evidenced by freight bill described as follows:

Way bill, date _____
No. _____
Car No. _____
Initial _____
Freight bill, date _____
No. _____
Carrier _____
Transit weight _____
Freight rate in _____
Amt. collected _____
Transit balance, if any, of through freight rate to _____ of _____ per 100 pounds.
Number unused transit stops _____

The above-described paid freight bill has been officially registered for transit and will be held in accordance with the provisions of paragraph 19 of the Uniform Grain Storage Agreement.

(Warehouseman's signature)

(Address)

(Date of signature)

(c) *County support rates.* Support rates for 100 pounds of eligible grain sorghums for the respective States and counties basis U. S. grade No. 2 or better grain sorghums free of dockage are listed below:

ARIZONA				MISSOURI			
County		Rate per 100 lbs. for U. S. No. 2 or better		County		Rate per 100 lbs. for U. S. No. 2 or better	
Cochise	-----	\$2.09		Cass	-----	\$2.30	
Graham	-----	2.02		Cedar	-----	2.23	
Greenlee	-----	2.05		Gentry	-----	2.30	
Maricopa	-----	2.45					
CALIFORNIA				NEBRASKA			
County		Rate per 100 lbs. for U. S. No. 2 or better		County		Rate per 100 lbs. for U. S. No. 2 or better	
Alameda	-----	\$2.66		Adams	-----	\$2.21	
Butte	-----	2.56		Antelope	-----	2.22	
Colusa	-----	2.58		Arthur	-----	2.10	
Contra Costa	-----	2.67		Banner	-----	2.08	
Fresno	-----	2.58		Blaine	-----	2.15	
Glenn	-----	2.55		Boone	-----	2.24	
Imperial	-----	2.53		Box Butte	-----	2.03	
Kern	-----	2.57		Boyd	-----	2.18	
Kings	-----	2.57		Brown	-----	2.15	
Los Angeles	-----	2.65		Buffalo	-----	2.21	
Madera	-----	2.61		Burt	-----	2.28	
Merced	-----	2.62		Butler	-----	2.28	
Riverside	-----	2.60		Cass	-----	2.30	
				Cedar	-----	2.22	
COLORADO				Chase	-----	2.09	
County		Rate per 100 lbs. for U. S. No. 2 or better		Cherry	-----	2.13	
Baca	-----	\$2.06		Cheyenne	-----	2.04	
Bent	-----	2.04		Clay	-----	2.21	
Cheyenne	-----	2.07		Colfax	-----	2.28	
Crowley	-----	2.04		Cuming	-----	2.28	
El Paso	-----	2.04		Custer	-----	2.18	
Jefferson	-----	2.04		Dakota	-----	2.25	
Kiowa	-----	2.06		Dawes	-----	2.05	
Las Animas	-----	2.03		Dawson	-----	2.18	
				Deuel	-----	2.08	
KANSAS				Dixon	-----	2.21	
County		Rate per 100 lbs. for U. S. No. 2 or better		Dodge	-----	2.29	
Allen	-----	\$2.24		Douglas	-----	2.31	
Anderson	-----	2.27		Dundy	-----	2.09	
Atchison	-----	2.28		Fillmore	-----	2.24	
Barber	-----	2.15		Franklin	-----	2.19	
Barton	-----	2.15		Frontier	-----	2.15	
Bourbon	-----	2.25		Furnas	-----	2.15	
Brown	-----	2.25		Gage	-----	2.26	
Butler	-----	2.18		Garden	-----	2.09	
Chase	-----	2.21		Garfield	-----	2.20	
Chautauqua	-----	2.21		Gosper	-----	2.17	
Cherokee	-----	2.23		Grant	-----	2.10	
Cheyenne	-----	2.09		Greeley	-----	2.23	
Clark	-----	2.11		Hall	-----	2.22	
Clay	-----	2.21		Hamilton	-----	2.24	
Cloud	-----	2.20		Harlan	-----	2.18	
Coffey	-----	2.24		Hayes	-----	2.12	
Comanche	-----	2.13		Hitchcock	-----	2.12	
Cowley	-----	2.18		Holt	-----	2.20	
Crawford	-----	2.24		Hooker	-----	2.12	
Decatur	-----	2.12		Howard	-----	2.22	
Dickinson	-----	2.18					
Doniphan	-----	2.25		NEW MEXICO			
Douglas	-----	2.27		County		Rate per 100 lbs. for U. S. No. 2 or better	
Edwards	-----	2.15		Chaves	-----	\$1.96	
Elk	-----	2.21		Curry	-----	2.01	
Ellis	-----	2.15		Eddy	-----	1.94	
Ellsworth	-----	2.17		Grant	-----	1.82	
Finney	-----	2.12		Guadalupe	-----	1.88	
Ford	-----	2.13		Harding	-----	1.84	
Franklin	-----	2.28		Hidalgo	-----	1.91	
Geary	-----	2.22		Lea	-----	1.94	
Gove	-----	2.12					
Graham	-----	2.15		OKLAHOMA			
Grant	-----	2.09		County		Rate per 100 lbs. for U. S. No. 2 or better	
Gray	-----	2.12		Adair	-----	\$2.17	
Greeley	-----	2.09		Alfalfa	-----	2.12	
Greenwood	-----	2.23		Atoka	-----	2.13	
Hamilton	-----	2.09		Beaver	-----	2.03	
Harper	-----	2.17		Beckham	-----	2.06	
Harvey	-----	2.18		Blaine	-----	2.09	
Haskell	-----	2.11		Bryan	-----	2.10	
Hodgeman	-----	2.14		Caddo	-----	2.09	
Jackson	-----	2.25		Canadian	-----	2.09	
Jefferson	-----	2.28		Carter	-----	2.09	
Jewell	-----	2.18		Cimarron	-----	1.98	
Johnson	-----	2.30		Cleveland	-----	2.09	
Kearny	-----	2.09		Coal	-----	2.12	
Kingman	-----	2.17		Comanche	-----	2.09	
Kiowa	-----	2.15		Cotton	-----	2.03	
Labette	-----	2.23		Craig	-----	2.20	
Lane	-----	2.12		Creek	-----	2.13	
Leavenworth	-----	2.31		Custer	-----	2.09	
Lincoln	-----	2.17		Dewey	-----	2.07	

OKLAHOMA—Continued

County or better	Rate per 100 lbs. for U. S. No. 2	County or better	Rate per 100 lbs. for U. S. No. 2
Oklahoma	\$2.09	Seminole	\$2.11
Osage	2.18	Stephens	2.09
Ottawa	2.20	Texas	2.03
Pawnee	2.13	Tillman	2.09
Payne	2.09	Tulsa	2.17
Pittsburg	2.15	Washita	2.09
Pontotoc	2.11	Woods	2.12
Pottawatomie	2.09	Woodward	2.06
Roger Mills	2.06		

SOUTH DAKOTA

Aurora	\$2.17	Jerauld	\$2.16
Beadle	2.14	Jones	2.07
Brule	2.16	Lyman	2.11
Buffalo	2.16	Meade	1.99
Charles Mix	2.18	Mellette	2.10
Clark	2.14	Pennington	2.01
Davison	2.18	Perkins	1.97
Douglas	2.17	Potter	2.07
Gregory	2.18	Sanborn	2.16
Haakon	2.02	Spink	2.13
Hand	2.12	Stanley	2.06
Hanson	2.19	Sully	2.08
Hughes	2.09	Todd	2.15
Hutchinson	2.20	Tripp	2.15
Hyde	2.09	Walworth	2.06
Jackson	2.04	Washabaugh	2.04

TEXAS

Aransas	\$2.18	Frio	\$2.09
Archer	2.06	Gaines	2.03
Armstrong	2.03	Garza	2.03
Atascosa	2.13	Gillespie	2.07
Bailey	2.03	Glasscock	2.03
Bastrop	2.22	Goliad	2.21
Baylor	2.05	Gonzales	2.21
Bee	2.15	Gray	2.02
Bell	2.16	Grayson	2.09
Bexar	2.14	Guadalupe	2.16
Borden	2.03	Hale	2.03
Bosque	2.14	Hall	2.03
Bowie	2.21	Hamilton	2.10
Brazos	2.27	Hansford	1.99
Briscoe	2.03	Hardeman	2.05
Brooks	2.07	Hartley	1.99
Brown	2.05	Haskell	2.04
Burleson	2.25	Hays	2.15
Burnet	2.13	Hemphill	2.02
Caldwell	2.19	Hidalgo	1.98
Calhoun	2.24	Hill	2.14
Callahan	2.04	Hockley	2.03
Carson	2.03	Howard	2.03
Castro	2.03	Hunt	2.09
Childress	2.03	Hutchinson	2.00
Clay	2.09	Jack	2.07
Cochran	2.03	Jackson	2.29
Coke	2.03	Jim Hogg	2.04
Coleman	2.03	Jim Wells	2.12
Collin	2.09	Johnson	2.11
Collingsworth	2.03	Jones	2.04
Colorado	2.31	Karnes	2.16
Comal	2.14	Kendall	2.09
Comanche	2.06	Kent	2.03
Concho	2.03	Kerr	2.07
Cooke	2.09	Kimble	2.04
Coryell	2.14	King	2.03
Cottle	2.03	Kleberg	2.12
Crosby	2.03	Knox	2.04
Dallam	1.97	Lamar	2.12
Dallas	2.10	Lamb	2.03
Dawson	2.03	Lampasas	2.12
Deaf Smith	2.03	La Salle	2.06
Denton	2.09	Lavaca	2.26
DeWitt	2.21	Lee	2.24
Dickens	2.03	Limestone	2.17
Donley	2.03	Lipscomb	2.01
Duval	2.08	Live Oak	2.15
Eastland	2.05	Loving	1.96
Ellis	2.13	Lubbock	2.03
Erath	2.09	Lynn	2.03
Falls	2.17	McCulloch	2.03
Fannin	2.09	McLennan	2.14
Fayette	2.28	Martin	2.03
Fisher	2.04	Maverick	1.94
Floyd	2.03	Medina	2.10
Foard	2.04	Midland	2.04

TEXAS—Continued

County or better	Rate per 100 lbs. for U. S. No. 2	County or better	Rate per 100 lbs. for U. S. No. 2
Millam	\$2.21	Somervell	\$2.10
Mills	2.10	Stephens	2.05
Mitchell	2.03	Sterling	2.00
Montague	2.09	Stonewall	2.03
Moore	1.99	Swisher	2.03
Motley	2.03	Tarrant	2.10
Navarro	2.14	Taylor	2.03
Nolan	2.03	Terry	2.03
Nueces	2.13	Throckmorton	2.08
Ochiltree	2.00	Tom Green	2.03
Oldham	2.03	Travis	2.18
Palo Pinto	2.06	Uvalde	2.03
Parker	2.08	Van Zandt	2.12
Parmer	2.03	Victoria	2.26
Pecos	1.96	Ward	1.97
Potter	2.03	Washington	2.30
Randall	2.03	Webb	2.01
Reagan	2.01	Wharton	2.33
Reeves	1.95	Wheeler	2.02
Refugio	2.22	Wichita	2.09
Roberts	2.02	Wilbarger	2.06
Runnels	2.03	Willacy	2.02
San Patricio	2.15	Williamson	2.16
San Saba	2.10	Wilson	2.14
Schleicher	2.01	Wise	2.09
Scurry	2.03	Yoakum	2.03
Shackelford	2.04	Young	2.07
Sherman	1.98	Zavala	1.97

WYOMING

Campbell	\$1.93	Natrona	\$1.86
Converse	1.92	Niobrara	1.99
Crook	1.95	Platte	1.99
Goshen	2.04	Sheridan	1.89
Johnson	1.80	Weston	1.97
Laramie	2.04		

In the case of loans, whether farm-storage or country warehouse storage, the support rate will be the rate established for the county in which the grain sorghums are stored.

(d) *Warehouse charges.* The warehouse receipt and the grain sorghums represented thereby may be subject to liens for warehouse charges only from May 15, 1949, or the date of the warehouse receipt, whichever is later.

If grain sorghums are placed under a warehouse storage loan or stored in an approved warehouse and delivered to CCC under a purchase agreement, evidence must be submitted with the warehouse receipt, showing that all warehouse charges, except receiving charges, have been prepaid through March 31, 1950, or a deduction will be made from the support rate as follows:

	Cents per 100 pounds
Area I.....	17.8
(Includes Arizona, California, Idaho, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Superior, Wisconsin.)	
Area II.....	19.2
(Includes Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, Wyoming, Wisconsin, except Superior.)	
Area III.....	19.6
(Includes Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia.)	
Area IV.....	20.5
(Includes Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas.)	

(e) *Variations for grades.* The support rate for grain sorghums which grade U. S. No. 3 shall be discounted 8 cents per 100 pounds and U. S. No. 4, 16 cents per 100 pounds. In addition, a discount of 3 cents per 100 pounds shall apply to "mixed" grain sorghums.

§ 621.125 *Settlement—(a) Loans.* Settlement on eligible farm-storage grain sorghums delivered to CCC under the loan program will be made at the support rate established in § 621.124, for the location where the grain sorghums were stored, for the total quantity delivered.

Irrespective of the provisions of the mortgage supplement, if the grain sorghums when delivered are of a grade and/or quality for which no support rate has been established, the settlement value shall be the support rate for the grade and/or quality of the grain sorghums placed under loan, less the difference, if any, at the time of delivery, between the market price for the grade and/or quality placed under loan and the market price of the grain sorghums delivered, as determined by CCC.

(b) *Purchase agreements.* Grain sorghums delivered to CCC under a purchase agreement must meet the requirements of grain sorghums eligible for loan. The purchase price per 100 pounds of eligible grain sorghums will be the applicable support rate established for the approved point of delivery. In the case of grain sorghums stored in an eligible warehouse and delivered to CCC under a purchase agreement, evidence must be submitted with the warehouse receipt that all warehouse charges, except receiving charges, have been prepaid through March 31, 1950, or a deduction for such charges as set forth in § 621.124 (d) will be made from the support rate and CCC will assume the accrued warehouse charges on the grain sorghums, provided, that CCC will not assume any charges in excess of those provided under the Uniform Grain Storage Agreement (CCC Form H, Revised) for the 1949 crop.

(c) *Track-loading.* Track-loading payments of 4 cents per 100 pounds will be made on grain sorghums delivered to CCC on track at a country point.

(d) *Storage allowance.* There shall be no storage allowance on grain sorghums placed under a loan or delivered to CCC under a purchase agreement.

(Sec. 5 (a), Pub. Law 806, 80th Cong., sec. 1 (d), 202 (a) Pub. Law 897, 80th Cong.; 62 Stat. 1072, 1248, 1252)

Issued this 21st day of July 1949.

[SEAL] ELMER F. KRUSE,
Manager,
Commodity Credit Corporation.

RALPH S. TRIGG,
President,
Commodity Credit Corporation.

[F. R. Doc. 49-6119; Filed, July 26, 1949; 8:47 a. m.]

[1949 C. C. Rye Bulletin 1, Supp. 1]

PART 656—RYE

SUBPART—1949 RYE LOAN AND PURCHASE AGREEMENT PROGRAM

1949 CROP RYE PRICE SUPPORT PROGRAM
BULLETIN

The regulations issued by Commodity Credit Corporation and the Production and Marketing Administration published in 14 F. R. 2975, governing the making of loans and containing the requirements of the purchase agreement program on rye produced in 1949 are hereby supplemented as follows:

§ 656.124 *Support rates*—(a) *Support rate at terminal markets.* Support rates per bushel for rye grading U. S. No. 2, or better, stored in eligible warehouse storage at the following terminal markets, shall be as follows:

Terminal market	Rate per bushel for U. S. No. 2 or better
Terminal markets used in determining county support rates:	
Kansas City, Mo., Omaha, Nebr., Minneapolis and Duluth, Minn.	\$1.46
Chicago, Ill., and St. Louis, Mo.	1.50
San Francisco and Los Angeles, Calif., and Portland, Oreg.	1.53
Memphis, Tenn.	1.56
Baltimore, Md., and Philadelphia, Pa.	1.61
Terminal market rates determined for storage only:	
Sioux City, Iowa, and Superior, Wis.	1.46
Milwaukee, Wis.	1.50

For the full support rate shown in the above schedule, the rye must have been shipped by rail at the domestic interstate freight rate. The rate at the designated terminal market will be reduced by the difference between the freight paid and the domestic interstate freight rate, on any rye shipped at other than the domestic freight rate.

The foregoing schedule of rates applies to rye delivered to any designated terminal market in carload lots which has been shipped by rail from a country shipping point to one of the designated terminal markets, as evidenced by paid freight bills duly registered for transit privileges: *Provided*, That in the event the amount of paid-in freight is insufficient to guarantee minimum proportional freight rate from the terminal market, there shall be deducted from the applicable terminal rate the difference between the amount of freight actually paid in and the amount required to be paid in to guarantee outbound movement at the minimum proportional freight rate. The warehouse receipts must be accompanied by registered freight bills, or by (1) a statement as indicated below signed by the warehouseman, (2) a certificate of the warehouseman containing such information, or (3) such forms as may hereafter be approved by CCC.

FREIGHT CERTIFICATE FOR TERMINALS

The rye represented by attached warehouse receipt No. _____ was received by rail freight from _____ (Town) (County) (State) point of origin, as evidenced by freight bill described as follows:

Way bill, date _____
No. _____
Car No. _____
Initial _____
Freight bill, date _____
No. _____
Carrier _____
Transit weight _____
Freight rate in _____
Amount collected _____
Number unused transit stops _____

The above-described paid freight bill has been officially registered for transit and will be held in accordance with the provisions of paragraph 19 of the Uniform Grain Storage Agreement.

(Warehouseman's signature) _____

(Address) _____

(Date of signature) _____

Rye stored at a designated terminal market (including trucked-in rye) for which neither registered freight bills nor such freight certificates are presented shall have a support rate equal to the county rate for the county in which the rye is stored, except that the support rate for rye stored in Baltimore, Maryland, shall be the support rate established for all counties in Maryland, and the support rate for rye stored in St. Louis, Missouri, shall be the support rate established for St. Louis County, Missouri.

(b) *Support rates at other than designated terminal points.* CCC will determine the support rate for rye in storage on the farm or in country warehouses by deducting from the designated terminal rate an amount equal to (1) the receiving and loading-out charges computed in accordance with the applicable schedule of rates of the Uniform Grain Storage Agreement (CCC Form H, Revised) for the 1949 crop plus (2) the average all-rail interstate freight rate (plus tax) from representative shipping points in the county to the appropriate terminal market.

Upon request by the county committee, the PMA commodity office will determine the rate for rye stored in approved warehouses (other than those situated in the designated terminal markets) which is shipped by rail from country shipping points, by deducting from the appropriate designated terminal market rate an amount equal to the transit balance of the through freight from point of origin for such rye to such terminal market, plus freight tax on such transit balance; *Provided*, That in the case of rye stored at any railroad transit point, taking a penalty by reason of out-of-line movement or for any other reason, to the appropriate market, there shall be added to such transit balance an amount equal to any out-of-line costs or other costs incurred in storing rye in such position.

The warehouse receipts, in addition to other required documents, must be accompanied by the original paid freight bills duly registered for transit privileges or by a statement in the following form signed by the warehouseman, or a warehouseman's supplemental certificate containing such information:

FREIGHT CERTIFICATE FOR OTHER THAN
TERMINAL POINTS

The rye represented by attached warehouse receipt No. _____ was received by

rail freight from _____ (Town) (County) _____ point of origin, as evidenced by _____ (State)

freight bill described as follows:

Way bill, date _____
No. _____
Car No. _____
Initial _____
Freight bill, date _____
No. _____
Carrier _____
Transit weight _____
Freight rate in _____
Amount collected _____
Transit balance, if any, of through freight rate to _____ of _____ per 100 pounds.
Number unused transit stops _____

The above-described paid freight bill has been officially registered for transit and will be held in accordance with the provisions of paragraph 19 of the Uniform Grain Storage Agreement.

(Warehouseman's signature) _____

(Address) _____

(Date of signature) _____

(c) *County support rates.* Support rates per bushel of eligible rye for the respective States and counties basis U. S. grade No. 2, or better, free of dockage are listed below:

ALABAMA		Rate per bushel for U. S. No. 2	
County			
All counties		\$1.36	
ARIZONA			
All counties		\$1.30	
ARKANSAS			
All counties		\$1.25	
CALIFORNIA			
County	Rate per bushel for U. S. No. 2	County	Rate per bushel for U. S. No. 2
Lassen	\$1.22	Modoc	\$1.21
Los Angeles	1.42	Shasta	1.31
Madera	1.38	Siskiyou	1.26
Merced	1.38		
COLORADO			
Baca	\$1.18	Morgan	\$1.17
Douglas	1.17	Pitkin	1.03
El Paso	1.17	Washington	1.17
Jefferson	1.17	Weld	1.17
Lincoln	1.17		
CONNECTICUT			
All counties			\$1.38
DELAWARE			
All counties			\$1.41
FLORIDA			
All counties			\$1.36
GEORGIA			
*All counties			\$1.36
IDAHO			
Bingham	\$1.09	Lincoln	\$1.12
Cassia	1.12	Shoshone	1.23
Kootenai	1.25	Washington	1.20
ILLINOIS			
Adams	\$1.31	Lake	\$1.35
Boone	1.33	Mason	1.32
Carroll	1.31	McHenry	1.34
Cass	1.32	Menard	1.32
Cook	1.35	Mercer	1.30
DeKalb	1.34	Morgan	1.32
DuPage	1.35	Ogle	1.33
Fulton	1.32	Pike	1.31
Greene	1.34	Rock Island	1.31
Henderson	1.30	Scott	1.33
Jersey	1.34	Whiteside	1.31
Kane	1.35	Winnebago	1.33

INDIANA

County	Rate per bushel for U. S. No. 2	County	Rate per bushel for U. S. No. 2
Adams	\$1.29	Noble	\$1.29
Blackford	1.29	Ohio	1.29
Brown	1.26	Parke	1.29
Clay	1.32	Pike	1.22
Dearborn	1.27	Pulaski	1.33
Delaware	1.29	St. Joseph	1.31
Elkhart	1.29	Starke	1.33
Floyd	1.30	Steuben	1.29
Henry	1.29	Tippecanoe	1.32
Jackson	1.27	Union	1.29
Jasper	1.34	Vigo	1.31
Jefferson	1.30	Warren	1.33
Johnson	1.29	Warrick	1.22
Kosciusko	1.30	Washington	1.29
Marion	1.28	Wayne	1.29
Marshall	1.30	Wells	1.29
Montgomery	1.31	Whitley	1.29

Iowa

Chickasaw	\$1.26	Fremont	\$1.31
Franklin	1.25	Worth	1.27

KANSAS

Butler	\$1.25	Lyon	\$1.28
Cheyenne	1.20	Marion	1.25
Clay	1.26	Morris	1.26
Comanche	1.22	Osage	1.29
Crawford	1.28	Osborne	1.24
Decatur	1.22	Pawnee	1.23
Dickinson	1.25	Pottawatomie	1.28
Douglas	1.30	Pratt	1.23
Edwards	1.23	Rawlins	1.21
Ellsworth	1.24	Reno	1.24
Ford	1.22	Riley	1.28
Franklin	1.30	Rush	1.23
Graham	1.23	Saline	1.25
Harvey	1.25	Shawnee	1.29
Jefferson	1.30	Stafford	1.23
Johnson	1.32	Wabaunsee	1.28
Kiowa	1.23	Wallace	1.20
Leavenworth	1.32		

KENTUCKY

All counties	\$1.35
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LOUISIANA

All counties	\$1.25
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MAINE

All counties	\$1.37
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MARYLAND

All counties	\$1.44
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MASSACHUSETTS

All counties	\$1.38
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MICHIGAN

Alpena	\$1.21	Mason	\$1.24
Antrim	1.20	Meosta	1.24
Benzie	1.22	Montcalm	1.25
Berrien	1.30	Montmorency	1.20
Clinton	1.28	Oceana	1.24
Grand Traverse	1.21	Osceola	1.23
Kalamazoo	1.30	Ottawa	1.27
Kent	1.27	Sanilac	1.28
Lake	1.23	Shiawassee	1.27
Manistee	1.22		

MINNESOTA

Anoka	\$1.33	Lac qui Parle	\$1.27
Becker	1.27	Lake	1.32
Beltrami	1.26	Le Sueur	1.31
Benton	1.30	Lincoln	1.27
Blue Earth	1.30	Lyon	1.28
Brown	1.29	McLeod	1.31
Chippewa	1.29	Marshall	1.24
Chisago	1.32	Martin	1.28
Clay	1.26	Meeker	1.31
Crow Wing	1.29	Mille Lacs	1.30
Dodge	1.30	Morrison	1.29
Douglas	1.28	Mower	1.29
Faribault	1.28	Murray	1.26
Grant	1.27	Nicollet	1.31
Hubbard	1.27	Nobles	1.27
Isanti	1.31	Norman	1.25
Jackson	1.27	Otter Tail	1.28
Kittson	1.22	Polk	1.25

MINNESOTA—Continued

Pope	\$1.29	Stevens	\$1.28
Red Lake	1.25	Swift	1.28
Redwood	1.29	Todd	1.29
Renville	1.29	Traverse	1.27
Roseau	1.23	Wadena	1.28
St. Louis	1.30	Watonswan	1.29
Scott	1.32	Winona	1.29
Sherburne	1.31	Wright	1.32
Sibley	1.31	Yellow Medicine	1.28
Stearns	1.30		
Steele	1.30		

MISSISSIPPI

All counties	\$1.36
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MISSOURI

Cass	\$1.31	Pike	\$1.31
Cedar	1.28	St. Francois	1.33
Linn	1.28	St. Louis	1.37
Moniteau	1.29	Saline	1.29

MONTANA

Blaine	\$1.05	Lewis and Clark	\$1.13
Custer	1.11	Mineral	1.16
Daniels	1.09	Park	1.13
Dawson	1.12	Phillips	1.07
Fallon	1.12	Ravalli	1.13
Flathead	1.16	Roosevelt	1.12
Gallatin	1.13	Rosebud	1.08
Glacier	1.14	Sheridan	1.11
Golden Valley	1.12	Toole	1.13
Hill	1.13	Valley	1.08
Judith Basin	1.13		
Lake	1.16		

NEBRASKA

Adams	\$1.26	Howard	\$1.27
Antelope	1.27	Jefferson	1.28
Arthur	1.20	Johnson	1.29
Banner	1.19	Kearney	1.25
Blaine	1.23	Keith	1.20
Boone	1.28	Keya Paha	1.24
Box Butte	1.19	Kimball	1.17
Boyd	1.25	Knox	1.26
Brown	1.23	Lancaster	1.31
Buffalo	1.26	Lincoln	1.22
Burt	1.31	Loupe	1.25
Butler	1.30	McPherson	1.22
Cass	1.32	Madison	1.28
Cedar	1.27	Merrick	1.28
Chase	1.20	Morrill	1.18
Cherry	1.22	Nance	1.28
Cheyenne	1.17	Nemaha	1.29
Clay	1.26	Nuckolls	1.26
Colfax	1.30	Otoe	1.30
Cuming	1.30	Pawnee	1.28
Custer	1.25	Perkins	1.20
Dakota	1.29	Phelps	1.25
Dawes	1.18	Pierce	1.27
Dawson	1.25	Platte	1.29
Deuel	1.19	Polk	1.29
Dixon	1.28	Redwillow	1.22
Dodge	1.31	Richardson	1.29
Douglas	1.32	Rock	1.24
Dundy	1.20	Saline	1.29
Fillmore	1.28	Sarpy	1.32
Franklin	1.25	Saunders	1.31
Frontier	1.23	Scotts Bluff	1.17
Furnas	1.23	Seward	1.30
Gage	1.29	Sheridan	1.19
Garden	1.20	Sherman	1.26
Garfield	1.26	Sioux	1.17
Gosper	1.24	Stanton	1.29
Grant	1.20	Thayer	1.28
Greeley	1.27	Thomas	1.23
Hall	1.27	Thurston	1.30
Hamilton	1.28	Valley	1.26
Harlan	1.25	Washington	1.31
Hayes	1.21	Wayne	1.27
Hitchcock	1.21	Webster	1.26
Holt	1.26	Wheeler	1.27
Hooker	1.22	York	1.29

NEVADA

Elko	\$1.11	Humboldt	\$1.17
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NEW HAMPSHIRE

All counties	\$1.38
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NEW JERSEY

County	Rate per bushel for U. S. No. 2
All counties	\$1.42

NEW MEXICO

County	Rate per bushel for U. S. No. 2	County	Rate per bushel for U. S. No. 2
Chaves	\$1.02	Roosevelt	\$1.04
De Baca	1.01	San Miguel	1.01
Eddy	1.01	Union	1.10
Harding	1.03	Valencia	.93

NEW YORK

All counties	\$1.40
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NORTH CAROLINA

All counties	\$1.37
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NORTH DAKOTA

Adams	\$1.16	McKenzie	\$1.13
Barnes	1.23	McLean	1.18
Benson	1.20	Mercer	1.17
Billings	1.16	Morton	1.18
Bottineau	1.17	Mountrail	1.17
Bowman	1.15	Nelson	1.22
Burke	1.16	Oliver	1.18
Burleigh	1.20	Pembina	1.21
Cass	1.24	Pierce	1.19
Cavalier	1.20	Ramsey	1.21
Dickey	1.22	Ransom	1.23
Divide	1.15	Renville	1.17
Dunn	1.16	Richland	1.25
Eddy	1.21	Rolette	1.19
Emmons	1.19	Sargent	1.24
Foster	1.22	Sheridan	1.20
Golden Valley	1.14	Sioux	1.18
Grand Forks	1.23	Slope	1.16
Grant	1.17	Stark	1.17
Griggs	1.23	Steel	1.23
Hettinger	1.17	Stutsman	1.22
Kidder	1.21	Towner	1.20
LaMoure	1.22	Traill	1.23
Logan	1.21	Walsh	1.22
McHenry	1.19	Ward	1.17
McIntosh	1.20	Wells	1.21
		Williams	1.16

OHIO

Ashtabula	\$1.34	Lucas	\$1.31
Clark	1.30	Montgomery	1.30
Clermont	1.30	Portage	1.32
Clinton	1.30	Sandusky	1.31
Hancock	1.31	Seneca	1.31
Huron	1.31	Stark	1.32
Lorain	1.32		

OKLAHOMA

Adair	\$1.24	Jackson	\$1.20
Alfalfa	1.21	Jefferson	1.20
Atoka	1.22	Kay	1.22
Beaver	1.16	Kingfisher	1.20
Beckham	1.18	Kiowa	1.20
Blaine	1.20	Lincoln	1.20
Bryan	1.20	Logan	1.30
Caddo	1.20	Love	1.20
Canadian	1.20	McClain	1.20
Carter	1.20	Marshall	1.20
Cherokee	1.23	Murray	1.20
Choctaw	1.21	Oklahoma	1.20
Cimarron	1.14	Osage	1.23
Cleveland	1.20	Ottawa	1.26
Coal	1.21	Pawnee	1.22
Comanche	1.20	Payne	1.20
Cotton	1.19	Pittsburg	1.23
Craig	1.26	Pontotoc	1.21
Creek	1.22	Pottawatomie	1.20
Custer	1.20	Pushmataha	1.23
Delaware	1.25	Roger Mills	1.18
Dewey	1.19	Rogers	1.25
Ellis	1.17	Seminole	1.21
Garfield	1.21	Sequoyah	1.24
Garvin	1.20	Stephens	1.20
Grady	1.20	Texas	1.16
Grant	1.22	Tillman	1.20
Greer	1.19	Tulsa	1.24
Harmon	1.18	Wagoner	1.24
Harper	1.18	Washita	1.20
Haskell	1.18	Woods	1.21
Hughes	1.21	Woodward	1.18

OREGON		Rate per bushel for	
County	U.S. No. 2	County	U.S. No. 2
Baker	\$1.24	Lane	\$1.35
Benton	1.38	Linn	1.37
Clackamas	1.40	Malheur	1.19
Crook	1.32	Marion	1.39
Deschutes	1.32	Morrow	1.36
Douglas	1.31	Polk	1.38
Gilliam	1.37	Sherman	1.38
Harney	1.14	Umatilla	1.31
Jackson	1.26	Union	1.24
Jefferson	1.33	Wallowa	1.23
Josephine	1.27	Wasco	1.38
Klamath	1.26	Washington	1.41
Lake	1.18	Yamhill	1.40
PENNSYLVANIA			
All counties			\$1.42
RHODE ISLAND			
All counties			\$1.38
SOUTH CAROLINA			
All counties			\$1.36
SOUTH DAKOTA			
Aurora	\$1.24	Jackson	\$1.17
Beadle	1.24	Jerauld	1.24
Bon Homme	1.26	Jones	1.19
Brookings	1.25	Kingsbury	1.25
Brown	1.23	Lake	1.25
Brule	1.23	Lawrence	1.14
Buffalo	1.24	Lincoln	1.27
Butte	1.14	Lyman	1.21
Campbell	1.20	McCook	1.26
Charles Mix	1.25	McPherson	1.21
Clark	1.25	Marshall	1.24
Clay	1.28	Meade	1.14
Codington	1.25	Mellette	1.20
Corson	1.18	Miner	1.25
Custer	1.16	Minnehaha	1.26
Davison	1.25	Moody	1.25
Day	1.24	Pennington	1.15
Deuel	1.26	Perkins	1.16
Dewey	1.17	Potter	1.20
Douglas	1.24	Roberts	1.25
Edmunds	1.22	Sanborn	1.24
Fall River	1.16	Shannon	1.20
Faulk	1.22	Spink	1.24
Grant	1.25	Stanley	1.18
Gregory	1.25	Sully	1.20
Haakon	1.16	Todd	1.23
Hamlin	1.25	Tripp	1.23
Hand	1.23	Turner	1.27
Hanson	1.25	Union	1.28
Harding	1.15	Walworth	1.20
Hughes	1.21	Washabaugh	1.17
Hutchinson	1.26	Yankton	1.27
Hyde	1.21	Ziebach	1.15
TENNESSEE			
All counties			\$1.37
TEXAS			
Bailey	\$1.13	Grayson	\$1.19
Callahan	1.17	Hamilton	1.17
Coryell	1.17	Terry	1.13
UTAH			
Box Elder	\$1.07	Sanpete	\$1.07
Juab	1.08	Tooele	1.08
Millard	1.10		
VERMONT			
All counties			\$1.38
VIRGINIA			
All counties			\$1.43
WASHINGTON			
Benton	\$1.32	Grant	\$1.26
Chelan	1.26	Lincoln	1.26
Douglas	1.24	Okanogan	1.22
Ferry	1.22	Spokane	1.26
Franklin	1.29	Stevens	1.23
Garfield	1.29	Walla Walla	1.31
WEST VIRGINIA			
All counties			\$1.39

WISCONSIN		Rate per bushel for	
County	U.S. No. 2	County	U.S. No. 2
Adams	\$1.30	Marathon	\$1.28
Barron	1.29	Marquette	1.27
Bayfield	1.29	Marquette	1.30
Brown	1.26	Monroe	1.29
Buffalo	1.28	Oconto	1.29
Burnett	1.30	Oneida	1.26
Calumet	1.31	Outagamie	1.30
Chippewa	1.29	Ozaukee	1.32
Clark	1.27	Pepin	1.29
Columbia	1.30	Pierce	1.32
Crawford	1.29	Polk	1.31
Dane	1.32	Portage	1.29
Dodge	1.32	Richland	1.29
Door	1.28	Rock	1.33
Douglas	1.33	Rusk	1.28
Dunn	1.29	St. Croix	1.32
Eau Claire	1.29	Sauk	1.30
Fond du Lac	1.32	Sawyer	1.29
Forest	1.27	Shawano	1.28
Grant	1.29	Sheboygan	1.32
Green Lake	1.30	Trempealeau	1.27
Iowa	1.30	Walworth	1.33
Jackson	1.28	Washington	1.29
Jefferson	1.33	Waukesha	1.33
Juneau	1.30	Waupaca	1.30
Kewaunee	1.29	Waushara	1.30
La Crosse	1.28	Winnebago	1.31
Langlade	1.28	Wood	1.29
Manitowoc	1.31		

WYOMING		Rate per bushel for	
County	U.S. No. 2	County	U.S. No. 2
Crook	\$1.13	Niobrara	\$1.13
Natrona	1.07	Platte	1.15

In the case of loans, whether farm-storage or country warehouse-storage, the support rate will be the rate established for the county in which the rye is stored.

(d) *Warehouse charges.* The warehouse receipt and the rye represented thereby may be subject to liens for warehouse charges only from May 15, 1949, or the date of the warehouse receipt, whichever is later.

If rye is placed under a warehouse storage loan or stored in an approved warehouse and delivered to CCC under a purchase agreement, evidence must be submitted with the warehouse receipt showing that all warehouse charges, except receiving charges, have been prepaid through April 30, 1950, or a deduction will be made from the support rate as follows:

Area	Cents per bushel
Area I	10
(Includes Arizona, California, Idaho, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Superior, Wisconsin.)	
Area II	10.7
(Includes Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, Wyoming, Wisconsin except Superior.)	
Area III	11
(Includes Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia.)	
Area IV	11.5
(Includes Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas.)	

(e) *Discount for ergot.* The rate for rye containing in excess of $\frac{3}{10}$ of 1 percent, but not in excess of 1 percent ergot,

shall be discounted 1 cent for each $\frac{1}{10}$ of 1 percent ergot in excess of $\frac{3}{10}$ of 1 percent.

§ 656.125 *Settlement—(a) Loans.* Settlement on eligible farm-storage rye delivered to CCC under the loan program will be made at the support rate established in § 656.124, for the location where the rye was stored, for the total quantity delivered.

Irrespective of the provisions of the mortgage supplement, if the rye, when delivered, is of a grade and/or quality for which no support rate has been established, the settlement value shall be the support rate for the grade and/or quality of the rye placed under loan, less the difference, if any, at the time of delivery, between the market price for the grade and/or quality placed under loan and the market price of the rye delivered as determined by CCC.

(b) *Purchase agreement.* Rye delivered to CCC under a purchase agreement must meet the requirements of rye eligible for loan. The purchase rate per bushel of eligible rye will be the support rate established for the approved point of delivery. In the case of rye stored in an eligible warehouse, delivered to CCC under a purchase agreement, evidence must be submitted with the warehouse receipt that all warehouse charges, except receiving charges, have been prepaid through April 30, 1950, or a deduction as set forth in § 656.124 (d) and (e) will be made from the support rate and CCC will assume the approved warehouse charges on the rye, provided that CCC will not assume any charges in excess of those provided under the Uniform Grain Storage Agreement (CCC Form H, Revised) for the 1949 crop.

(c) *Track-loading.* Track-loading payments of 2 cents per bushel will be made on rye delivered to CCC on track at a country point.

(d) *Storage allowance.* There shall be no storage allowance on rye placed under a loan or delivered to CCC under a purchase agreement.

(Sec. 5 (a), Pub. Law 806, 80th Cong.; sec. 1 (d), 202 (a), Pub. Law 897, 80th Cong.; 62 Stat. 1072, 1248, 1252)

Issued this 21st day of July 1949.

[SEAL] ELMER F. KRUSE,
Manager,
Commodity Credit Corporation.

Approved:

RALPH S. TRIGG,
President,
Commodity Credit Corporation.

[F. R. Doc. 49-6120; Filed, July 26, 1949; 8:47 a. m.]

[1949 C. C. C. Hay and Pasture Grass Seed Bulletin 1]

PART 659—SEEDS

SUBPART—1949 HAY AND PASTURE GRASS SEED PURCHASE AGREEMENT PROGRAM

1949 CROP HAY AND PASTURE GRASS SEED PRICE SUPPORT BULLETIN

This bulletin states the requirements with respect to the 1949-crop Hay and

Pasture Grass Seed Price Support Program formulated by Commodity Credit Corporation (hereinafter referred to as CCC) and the Production and Marketing Administration (hereinafter referred to as PMA). The Program will be carried out by PMA under the general supervision and direction of the Manager, CCC. Purchase agreements will be made available on eligible seeds produced in 1949 in accordance with this bulletin.

Sec.	
659.75	Administration.
659.76	Availability of purchase agreements.
659.77	Eligible producer.
659.78	Eligible seeds.
659.79	Approved storage.
659.80	Approved forms.
659.81	Determination of quantity.
659.82	Determination of quality.
659.83	Liens.
659.84	Service fees.
659.85	Set-offs.
659.86	Transfer of producer's equity.
659.87	Delivery.
659.88	Storage and handling charges.
659.89	PMA commodity offices.
659.90	Schedule of specifications and prices.

AUTHORITY: §§ 659.75 to 659.90 issued under sec. 5 (a) Pub. Law 806, 80th Cong.; sec. 1 (d), 202 (a), Pub. Law 897, 80th Cong.; 62 Stat. 1072, 1248, 1252.

§ 659.75 *Administration.* In the field, the program will be administered through State PMA committees, county agricultural conservation committees (hereinafter referred to as county committees), and PMA commodity offices.

Forms will be distributed through the offices of State and county committees. County committees will examine the warehouse receipts and certificates covering the seed in each lot, and, on the basis of such documents, determine the eligibility and value of seed delivered under the program. All purchase documents will be completed and approved by the county committee, which will retain copies of all such documents. The county committee may designate in writing certain employees of the county agricultural conservation association to approve such forms on behalf of the committee.

§ 659.76 *Availability of purchase agreements—(a) Area.* Purchase agreements shall be available on eligible seeds in all areas.

(b) *Time.* Purchase agreements shall be available from time of harvest through January 31, 1950, and the applicable documents must be signed by the producer and delivered to the county committee not later than such date.

(c) *Source.* Purchase agreements shall be made through the offices of county committees.

§ 659.77 *Eligible producer.* An eligible producer shall be an individual, partnership, association, corporation, or other legal entity producing eligible seed in 1949 as landowner, landlord, tenant, or sharecropper.

§ 659.78 *Eligible seed.* Eligible seed shall be hay, pasture, and range grass seed named in § 659.90, which meet in every particular the specifications set forth in supplement 1 to this bulletin, and are harvested in the continental United States in 1949, the beneficial interest in which is in the producer and

always has been in him, or in him and a former producer whom he succeeded before the hay, pasture, and range grass seed was harvested.

§ 659.79 *Approved storage.* Approved storage for seed shall meet the following requirements:

Under the purchase agreement program, approved warehouse storage shall consist of storage made available by warehousemen, seed dealers, cooperative associations, and others having adequate facilities for handling and storing seed for which a Seed Cleaning and Storage Agreement in effect for the 1949 crop has been executed with CCC. Names of approved warehouses may be obtained from State offices and county committees.

§ 659.80 *Approved forms.* The approved forms consist of the purchase agreement documents which, together with the provisions of this bulletin, and any supplements and amendments hereto, govern the rights and responsibilities of the producer. Purchase documents executed by an administrator, executor, or trustee, will be acceptable only where legally valid.

Any fraudulent representation made by a producer in obtaining a purchase agreement or in executing any of the purchase documents will render him subject to criminal prosecution.

(a) *Purchase agreement documents.* The purchase agreement documents shall consist of the purchase agreement (Commodity Purchase Form 1), Delivery Instructions (Commodity Purchase Form 3), and Purchase Agreement Settlement (Commodity Purchase Form 4) signed by the producer and approved by the county committee, negotiable warehouse receipts, official germination and purity test certificates, and such other forms as may be prescribed by CCC.

(b) *Warehouse receipts.* Seed in approved warehouse storage delivered under the purchase agreement program must be represented by warehouse receipts which satisfy the following requirements:

(1) Warehouse receipts must be issued in the name of the producer, must be properly endorsed in blank so as to vest title in the holder, and must be issued by an approved warehouse.

(2) Warehouse receipts shall carry an endorsement in substantially the following form:

Warehouse charges through April 30, 1950, on the seed represented by this warehouse receipt have been paid or otherwise provided for, and lien for such charges will not be claimed by the warehouseman from CCC or any subsequent holder of the warehouse receipt.

(3) Each warehouse receipt, or the supplemental certificate (in duplicate) properly identified with the warehouse receipt, must set forth in the written or printed terms the kind or variety of seed, the lot number or lot identity, the number of bags, the net weight, and the quality which shall be evidenced by attached official purity analysis and germination test certificates. In cases where eligible seed is delivered to CCC in an approved warehouse, all relevant quality factors for determining the eligibility and price of the seed must be shown on the ware-

house receipt, or the warehouse receipt shall carry an endorsement in substantially the following form:

The quality of the seed represented by this warehouse receipt is guaranteed to be equal to the quality shown on the attached official purity analysis and germination test certificates.

§ 659.81 *Determination of quantity.* All determinations of the quantity of seed under this program shall be made on the basis of the net weight of eligible seed, as specified on the warehouse receipt, or the supplemental certificate (in duplicate).

§ 659.82 *Determination of quality.* The county committee will determine the quality of the seed on the basis of official purity and germination tests of a representative sample. An "official test" shall be an analysis made by a Federal or State Seed Testing Laboratory where such facilities are available, or, in the absence of such facilities, a seed testing laboratory approved by the State committee. Not more than 5 calendar months shall have elapsed since the last day of the month in which the germination test was completed. A representative sample for determination of quality shall be a sample taken by a licensed State inspector, or where such services are not provided, the county agricultural conservation committee shall arrange for the securing of a representative sample which shall consist of equal portions taken from evenly distributed parts of the lot of bagged seed to be sampled. In quantities of 5 bags or less, each bag shall be sampled; in quantities of more than 5 bags, at least every fifth bag but not less than 5 bags shall be sampled. A probe or trier shall be used in drawing samples.

§ 659.83 *Liens.* If there are any liens or encumbrances on the hay, pasture or range grass seed, proper waivers must be obtained.

§ 659.84 *Service fees.* (a) At the time the producer signs a purchase agreement he shall pay a service fee of 1 cent per 100 pounds on the quantity specified on Commodity Purchase 1 as the maximum quantity he may deliver, or \$1.50, whichever is greater.

(b) *Refunds.* No refund of service fees will be made.

§ 659.85 *Set-offs.* If the producer is indebted to CCC on any accrued obligation, or if any installments past due or maturing within twelve months are unpaid on any loan made available by CCC on farm storage facilities, whether held by CCC or a lending agency, he must designate CCC or such lending agency as the payee of the proceeds of the purchase to the extent of such indebtedness or installments, but not to exceed that portion of the proceeds remaining after deduction of amounts due prior lienholders.

If the producer is indebted to any other agency of the United States, and such indebtedness is listed on the county debt register, he must designate such agency as the payee of the proceeds as provided above.

Indebtedness owing to CCC or to a lending agency as provided above shall be given first consideration after claims of prior lienholders.

§ 659.86 *Transfer of producer's equity.* The producer may not assign the purchase agreement.

§ 659.87 *Delivery.* The producer who signs a purchase agreement (Commodity Purchase 1) will not be obligated to deliver any hay, pasture or range grass seed to CCC. He may deliver any amount up to but not in excess of the quantity shown on Commodity Purchase 1.

If the producer who signed a purchase agreement wishes to sell seed to CCC he will have a 30-day period during which he must notify the county committee of his intention to sell. This period will end on April 30, 1950, or on such earlier date as may be determined by the Manager, CCC.

In the case of eligible seed stored in an approved warehouse, the producer must, not later than the day following the final date of such 30-day period, submit warehouse receipts under which the warehouseman guarantees the quantity and quality to the county committee for the quantity of such seed he elects to sell to CCC, but not in excess of the quantity shown on Commodity Purchase 1. In the case of eligible seed stored in other than approved warehouse storage, the county committee will, on or after May 1, 1950, issue delivery instructions to the producer. The producer must then complete delivery within a 15-day period immediately following the date the county committee issues delivery instructions unless the county committee determines that more time is needed for delivery. Eligible seed stored in other than approved warehouse storage will be purchased on delivery at points designated by CCC. When delivery is completed, payment shall be made by sight draft drawn on CCC by the State PMA office on the basis of an approved Commodity Purchase 4. The producer shall direct on such forms to whom payment of the proceeds shall be made. Seeds eligible for delivery will be purchased on the basis of the net weight of such seed, in accordance with the basic specifications shown in Supplement 1 to this bulletin, and subject to the discounts for seeds meeting minimum specifications, but below the basic specifications, such discounts being found in Supplement 1 to this bulletin. To be eligible for delivery seed must be cleaned and bagged in approved bags, fumigated if necessary, and tagged in accordance with the Federal Seed Act for interstate shipments when CCC orders government-owned seeds loaded out for interstate shipment. Seeds to be eligible for delivery also must conform with the requirements concerning noxious weed seed and must be packaged in conformity with the provisions of Supplement 1 to this bulletin.

§ 659.88 *Storage and handling charges.* Commodity Credit Corporation will not pay or assume any of the costs of cleaning, bags and bagging, sampling, testing and analysis reports, tagging, or other handling or processing expenses which are necessary to prepare the seed to meet eligibility requirements, or storage charges accruing through April 30, 1950, or the date of the warehouse receipt, whichever is later.

§ 659.89 *PMA commodity offices.* The PMA commodity offices and the areas served by them are shown below:

ADDRESS AND AREA

Atlanta 3, Ga., 449 West Peachtree Street NE.: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia.

Chicago 5, Ill., 623 South Wabash Avenue: Illinois, Indiana, Iowa, Michigan, Ohio.

Dallas 2, Tex., 1114 Commerce Street: Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Kansas City 6, Mo., Postal Building, 802 Delaware Avenue: Colorado, Kansas, Missouri, Nebraska, Wyoming.

Minneapolis 1, Minn., 328 McKnight Building: Minnesota, Montana, North Dakota, South Dakota, Wisconsin.

New York 4, N. Y., 67 Broad Street: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia.

Portland 5, Ore., 515 Southwest Tenth Avenue: Idaho, Oregon, Washington.

San Francisco 2, Calif., 30 Van Ness Avenue: Arizona, California, Nevada, Utah.

§ 659.90 *Schedule of basic specifications and rates.* The rates at which purchases will be made shall be computed in accordance with the schedule of basic specifications and rates shown in Supplement 1 to this bulletin, or shall be 90 percent of parity (or comparable price) as of July 1, 1949, whichever is lower, subject to discounts shown in Supplement 1 to this bulletin.

The following seeds are included in this program:

HAY AND PASTURE

- Alfalfa:
 - Northern.¹
 - Central.²
 - Southern.³
- Clovers:
 - Alsike.
 - Ladino, certified.
 - Red.
 - Sweet.
 - Hubam Sweet.
 - White (Southern States).
- Lespedeza:
 - Common or Tenn. 76
 - Kobe.
 - Sericea.
- Grasses:
 - Smooth Brome, certified.
 - Wheatgrass, crested.
 - Wheatgrass, slender.
 - Wheatgrass, Western.
 - Orchard, certified.
 - Sudan, certified.
 - Timothy, certified.
 - Fescue, Tall Meadow, certified.⁴

¹ The Northern Region includes all producing areas north of the southern boundaries of Oregon, Idaho, Wyoming, Nebraska, and eastward in counties which are north of, intersected by, the 40th degree of latitude.

² The Central Region includes all the producing areas south of the Northern Region and north of the 37th degree of latitude (excluding California north of the 37th degree of latitude except the counties of Tehama, Plumas, and those counties north of the 40th degree of latitude, but including all counties south of the 37th degree of latitude in Nevada, Missouri, Kentucky, and Virginia). Approved origin alfalfa seed in Oklahoma tagged and sealed with the official tags and seals of the Oklahoma Crop Improvement Association will be at the rates specified for the Central Region.

³ The Southern Region includes all the producing areas south of the Central Region.

⁴ Alta and Kentucky 31 only.

RANGE GRASES

Big Bluestem.
Little Bluestem.
Sand Bluestem.
Side Oats Grama.
Blue Grama.
Buffalo Grass.
Switch Grass.
Weeping Lovegrass.
Sand Lovegrass.
Indiangrass, yellow.
Mixed Bluestem.
Mixed Grama.

Issued this 21st day of July 1949.

[SEAL] ELMER F. KRUSE,
Manager,
Commodity Credit Corporation.

Approved:

RALPH S. TRIGG,
President, Commodity Credit
Corporation.

[F. R. Doc. 49-6121; Filed, July 26, 1949;
8:48 a. m.]

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

PART 4—WAR FOOD ORDERS

AGRICULTURE-IMPORT ORDER

Pursuant to the authority vested in me, the Agriculture-Import Order (14 F. R. 3701), formerly War Food Order No. 63, as amended (14 F. R. 1733), is amended to read as follows:

§ 4.1 Food imports—(a) Definitions.

(1) "Consignee" means the person to whom a food is consigned at the time of importation.

(2) "Administrator" means the Administrator of Production and Marketing Administration, United States Department of Agriculture.

(3) "Food" means an item or commodity listed from time to time in Appendix A as being subject to this section.

(4) "Governing date" with respect to any food means the date when such food became subject to War Food Order No. 63, or this Order, as shown in Appendix A.

(5) "Import" means to transport in any manner into the continental United States, Puerto Rico, the Virgin Islands, or any territory or insular possession of the United States from any foreign country. It includes shipments into a free port, free zone, or bonded custody of the United States Bureau of Customs (bonded warehouse) in the continental United States, Puerto Rico, or the Virgin Islands and shipments in bond into the continental United States, Puerto Rico, or the Virgin Islands for transshipment into Canada, Mexico, or any other foreign country.

(6) "In transit" means that food (i) is afloat, (ii) has had an on-board ocean bill of lading actually issued with respect to it, or (iii) has actually been delivered to and accepted by a rail, truck, or air carrier, for transportation to a point within the continental United States, Puerto Rico, or the Virgin Islands, or any territory or possession of the United States.

(7) "Owner" of any food means any person who has any property interest in such food except a person whose interest is held solely as a security for the payment of money.

(8) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether or not incorporated.

(b) *Restrictions on imports*—(1) *General restriction.* No person, except as authorized in writing by the Administrator, shall import, purchase for import, receive or offer to receive on consignment for import, or make any contract or other arrangement for the importing of any food listed in Appendix A to this section after the governing date. The foregoing restrictions shall apply to the importation of any food listed in Appendix A regardless of the existence on the governing date or thereafter of any contract or other arrangement for the importation of such food.

In the issuance of authorizations, the Administrator shall act in accordance with the standards and guides set forth in paragraph (e) of this section.

(2) *Application for authorization.* Any person desiring such authorization, whether owner, purchaser, seller, or consignee of the food to be imported, or agent of any of them, shall make application therefor on Form WFO-63-2 or such other form as may be issued for this purpose by the Administrator, addressed to the Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. Ref: Agriculture-Import Order. Unless otherwise expressly permitted, such authorization shall apply only to the particular food and shipment mentioned therein and to the persons and their agents concerned with such shipment. Such authorizations shall not be assignable or transferable either in whole or in part, except as authorized in writing by the Administrator.

(3) *Restrictions on financing.* No bank or other person shall participate, by financing or otherwise, in any arrangement which such bank or person knows or has reason to know involves the importation after the governing date of any food subject to this section, unless such bank or person either has received a copy of the authorization by the Administrator under the provisions of subparagraph (2) of this paragraph or is satisfied from known facts that the proposed transaction comes within the exceptions set forth in subparagraphs (4) and (5) of this paragraph.

(4) *Exceptions.* Unless otherwise directed by the Administrator the restrictions set forth in this paragraph shall not apply:

(i) To any United States Governmental department, agency, or corporation, or any agent acting for any such department, agency, or corporation; or

(ii) To food of which any United States Governmental department, agency, or corporation is the owner at the time of importation; or

(iii) To food which on the governing date was in transit; or

(iv) To food consigned or imported as a sample where the value of each con-

signment or shipment is less than \$25.00; or

(v) To food consigned as a gift or imported for personal use where the value of each consignment or shipment is less than \$100.00; or

(vi) To food shipped into the United States in transit from one point in Mexico to another point in Mexico, or from one point in Canada to another point in Canada; or

(vii) To inter-island shipments of food between Puerto Rico and the Virgin Islands; or

(viii) To imports of food from the continental United States into Puerto Rico, the Virgin Islands or into any territory or possession of the United States.

(5) This section shall not affect any regulations now or hereafter issued by any governmental authority covering shipments of food from the continental United States to Puerto Rico and the Virgin Islands, or to any territory or possession of the United States.

(c) *Restrictions after importation.* Unless otherwise provided by the terms of the authorization (or amendments thereof) issued pursuant to paragraph (b) (2) of this section, any food which is imported in accordance with the provisions of this section after the governing date, may be sold, delivered, processed, consumed, purchased, or received without restriction under this section; but all such transactions shall be subject to all applicable provisions of the regulations, orders, and directions of the United States Department of Agriculture which now or hereafter may be in effect with respect to such food.

(d) *Change of commodities listed in Appendix A.* The Administrator may from time to time add commodities to or remove commodities from Appendix A; *Provided,* That, in so doing he shall follow the standards and guides set forth in paragraph (e) of this section.

(e) *Standards and guides.* In the issuance of authorizations, and in the addition of commodities to and the removal of commodities from Appendix A to this section, the Administrator shall follow these standards and guides:

(1) In the addition of commodities to and the removal of commodities from Appendix A, the Administrator shall be satisfied that the exercise of import controls with respect to the commodities listed in Appendix A is essential to the acquisition or distribution of products in world short supply or the orderly liquidation of temporary surpluses of stocks owned or controlled by the Government.

(2) In the issuance of authorization, the Administrator shall allocate the authorizations granted by him on a fair and equitable basis among different groups of applicants and among applicants within the same group.

(f) *Records and reports*—(1) *Reports on customs entry.* No food which is imported after the governing date, including food imported by or for the account of any United States Governmental department, agency, or corporation, shall be entered through the United States Bureau of Customs for any purpose, whether for consumption, for warehouse, in transit, in bond, for re-export, for appraisal,

or otherwise, unless the person making the entry shall file in duplicate with the entry Form WFO 63-1, or such other form as may be issued for this purpose by the Administrator. The filing of such form a second time shall not be required upon any subsequent entry of such food in the same importation through the United States Bureau of Customs for any purpose; nor shall the filing of such form be required upon the withdrawal of any food from bonded custody of the United States Bureau of Customs, regardless of the date when such food was first transported into the continental United States. Both copies of such form shall be transmitted by the Collector of Customs to the Administrator, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., Ref: Agriculture-Import Order.

(2) *Records and other reports.* The Administrator shall be entitled to obtain such information from, and require such reports and the keeping of such records by, any person as may be necessary or appropriate, in the Administrator's discretion, in the enforcement or administration of the provisions of this section.

(g) *Audits and inspections.* The Administrator shall be entitled to make such audits or inspection of the books, records, and other writings, premises, or stocks of imported foods of any person, and to make such investigations as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this section.

(h) *Communications.* All reports required to be filed hereunder and all communications concerning this section shall, unless instructions to the contrary are issued by the Administrator, be addressed to the Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. Ref.: Agriculture-Import Order.

(i) *Revocation.* Any import authorization issued hereunder may be revoked at any time by the Administrator. Such revocation shall not affect food in transit at the time of revocation.

(j) *Petition for relief from hardship.* Any person affected by this section who considers that compliance herewith would work an exceptional or unreasonable hardship on him may file a petition for relief with the Order Administrator. Petitions shall be in writing and shall set forth all pertinent facts and the nature of the relief sought. The Order Administrator may take any action with reference to such petition which is consistent with the authority delegated to him by the Administrator. If the petitioner is dissatisfied with the action taken by the Order Administrator, he may, by request addressed to the Order Administrator, obtain a review of such action by the Administrator. After said review, the Administrator may take such action as he deems appropriate, which action shall be final.

(k) *Violations.* Any person who willfully violates any provision of this section is guilty of a crime, and may be prosecuted under any or all applicable laws. Civil action may also be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this section. The Admin-

istrator may direct the disposition and use of any food which is imported without authorization as required by paragraph (b) of this section.

(l) *Delegation of authority.* The administration of this section and the powers vested in the Secretary of Agriculture insofar as such powers relate to the administration of this section are hereby delegated to the Administrator. The Administrator is authorized to redelegate to any employee of the United States Department of Agriculture any or all of the authority vested in him by this section.

(m) *Effect on liability of removal of food from order.* The removal of any

food from this section shall not be construed to affect in any way any liability for violations of this section which accrued or were incurred prior to the date of removal.

(n) *Effective date.* This amendment shall become effective at 12:01 a. m., Eastern Daylight Time, July 30, 1949. With respect to violations, rights accrued, liabilities incurred, or appeals taken prior to said date, under this order all provisions of said order shall be deemed to remain in full force for the purpose of sustaining any proper suit, action or other proceeding with respect to any such violation, right, liability, or appeal.

(E. O. 9280, Dec. 5, 1942, 7 F. R. 10179; E. O. 9577, June 29, 1945, 10 F. R. 8087)

Issued this 22d day of July 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

APPENDIX A—ITEMS SUBJECT TO AGRICULTURE-IMPORT ORDER

The numbers listed after the following foods are commodity numbers taken from Schedule A, Statistical Classification of Imports of the Department of Commerce (Issue of September 1, 1946). Foods are included in the list to the extent that they are covered by the commodity numbers listed below. If no commodity number is listed, the description given shall control.

Food	Commerce import class No.	Governing date	Food	Commerce import class No.	Governing date
Butter.....	0044.000	Nov. 13, 1944	Olive oil, inedible—Continued		
Combinations and mixtures of animal or vegetable oils, or any of them, with or without other substances not specially provided for.....	2260.120	Do.	Other.....	2245.000	Feb. 3, 1948
Cottonseed oil, crude, refined.....	1428.100, 1423.200	Do.	Palm oil.....	2243.000	Nov. 13, 1944
Fatty acids, not specially provided for, derived from vegetable oils, animal or fish oils, animal fats and greases, not elsewhere specified:			Peanuts, blanched, roasted, prepared or preserved.....	1380.080	July 30, 1949
Cottonseed oil.....	2260.220	Do.	Peanut butter.....	1380.090	Do.
Linseed oil.....	2260.210	Do.	Peanut (ground nut) oil.....	1427.000	Nov. 13, 1944
Soybean oil.....	2260.230	Do.	Peanuts, shelled or not shelled.....	1367.000, 1368.000	Do.
Other, not elsewhere specified.....	2260.240	Do.	Rice:		
Flaxseed (linseed).....	2233.000	Do.	Paddy.....	1051.000	Do.
Flaxseed screenings.....	1190.400	Mar. 24, 1949	Uncleaned or brown rice.....	1051.100	Do.
Lard (including rendered pork fat).....	0036.000	Nov. 13, 1944	Cleaned or milled rice.....	1053.000	Do.
Lard compounds and lard substitutes made from animal or vegetable oils and fats.....	0036.100	Do.	Patna rice, cleaned, for use in canned soups.....	1054.000	Do.
Linseed oil, and combinations and mixtures, in chief value of such oil.....	2254.000	Do.	Rice meal, flour, polish and bran.....	1059.100	Do.
Oleo oil.....	0036.200	Do.	Rice starch.....	2815.100	July 30, 1949
Oleo stearine.....	0036.300	Do.	Broken.....	1059.200	Nov. 13, 1944
Olive oil, edible:			Soap and soap powder.....	8711.000- 8719.900, inclusive	
In packages weighing less than 40 pounds.....	1424.000	Feb. 3, 1948	Soybeans.....	2240.700	July 30, 1949
In packages of 40 pounds or over.....	1425.000	Do.	Soybean oil.....	2260.010	Do.
Olive oil, inedible:			Sunflower oil, edible and denatured.....	1421.000, 2247.000	Nov. 13, 1944
Sulphured or foots.....	2244.000	Do.	Sunflower seed.....	2240.000	Do.
			Tallow, beef and mutton, including oleo stock.....	0036.600	Do.
			Tallow, beef and mutton (inedible), including oleo stock.....	0815.600	Do.

[F. R. Doc. 49-6142; Filed, July 26, 1949; 8:50 a. m.]

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

SUBPART B—UNITED STATES STANDARDS FOR GRADES OF PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS¹

UNITED STATES STANDARDS FOR GRADES OF CANNED CARROTS²

On February 22, 1949, a notice of rule making was published in the FEDERAL REGISTER (14 F. R. 798) regarding a proposed revision of the United States Standards for Grades of Canned Carrots (7 CFR 52.216). After consideration of all relevant matters, the following revised United States Standards for Grades of Canned Carrots are hereby promulgated under the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.) and the Department of Agriculture Appro-

priation Act, 1950 (Pub. Law 146, 81st Cong., approved June 29, 1949):

§ 52.216 *Canned carrots.* "Canned carrots" means canned carrots as defined in § 52.990 *Canned vegetables; identity; label statement of optional ingredients* (21 CFR, Cum. Supp., 52.990; 13 F. R. 6407), issued pursuant to the Federal Food, Drug and Cosmetic Act.

(a) *Styles of canned carrots.* (1) "Whole" or "whole carrots" means canned carrots consisting of whole carrots that retain the approximate original conformation of the whole carrot.

(2) "Slices" or "sliced carrots" means canned carrots consisting of carrot slices produced by slicing whole carrots transversely to the longitudinal axis.

(3) "Quarters" or "quartered carrots" means canned carrots consisting of quarters of carrots produced by cutting whole carrots longitudinally into four approximately equal units. Whole carrots cut longitudinally into six units approximating the size and appearance of the quartered carrots are also permitted in this style.

(4) "Diced carrots" means canned carrots consisting of units produced by cutting whole carrots into cubes having edges other than the rounded outer edges measuring approximately $\frac{1}{2}$ inch or less.

(5) "Julienne," "French Style," or "shoestring" means canned carrots consisting of strips of carrots.

(6) "Cut" means canned carrots consisting of units which with respect to size or shape do not conform to any of the foregoing styles. Carrots which have been cut longitudinally into two approximately equal units are included in this style.

(7) "Unit" means an individual carrot or portion of a carrot in canned carrots.

(b) *Grades of canned carrots.* (1) "U. S. Grade A" or "U. S. Fancy" is the quality of canned carrots that possess a normal flavor and normal odor; possess a good color; are practically free from defects, are tender, are practically uniform in size and shape or fairly uniform in size and shape and score not less than 85 points when scored in accordance with the scoring system outlined in this section.

(2) "U. S. Grade C" or "U. S. Standard" is the quality of canned carrots that possess a normal flavor and normal odor; possess a fairly good color; are fairly free from defects; are fairly tender; are fairly uniform in size and shape, or may be irregular in size and shape and score not less than 70 points when scored in accordance with the scoring system outlined in this section.

(3) "U. S. Grade D" or "Substandard" is the quality of canned carrots that fail to meet the requirements of U. S. Grade C or U. S. Standard.

(c) *Recommended fill of container.* The recommended fill of container is not

¹ The requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

² The requirements of these standards shall not excuse failure to comply with applicable state laws and regulations.

incorporated in the grade of the finished product since fill of container, as such, is not a factor of quality for the purpose of these grades. It is recommended that the container of canned carrots be filled as full as practicable without impairment of quality.

(d) *Recommended drained weight.* The drained weight recommendations in Table No. I of this paragraph are not incorporated in the grades of the finished product since drained weight, as such, is not a factor of quality for the purpose of these grades. The drained weight of canned carrots is determined by emptying the contents of the container upon a No. 8 sieve of proper diameter and allowing to drain for 2 minutes. A sieve 8 inches in diameter is used for the No. 2½ size can (401 x 411) and smaller sizes; and a sieve 12 inches in diameter is used for containers larger than the No. 2½ size can.

TABLE NO. I—RECOMMENDED MINIMUM DRAINED WEIGHTS, IN OUNCES, OF CARROTS

Container size or designation	Style of canned carrots				
	Whole	Diced	Quarters-cut	Sliced	Julienne
8 oz. tall.....	5¾	6	6	5¾	5½
No. 1 picnic.....	7¼	7½	7½	7¼	7
No. 303.....	10½	11	11	10½	10
No. 2.....	12½	13	12½	12½	12
No. 2½.....	18½	19	18½	18½	18½
No. 10.....	68	72	70½	69	68
16 oz. glass.....	10½	11	11	10½	10

(e) *Sizes of carrots in whole carrots.* The size of any carrot is determined by measuring the longest diameter through the center transverse to the longitudinal axis of the carrot.

(f) *Sizes of carrot slices in sliced carrots.* The size of any slice in sliced carrots is determined by measuring the shortest diameter of the surfaces of the slice.

(g) *Ascertaining the grade.* (1) The grade of canned carrots is ascertained by considering, in addition to normal flavor and normal odor and the minimum requirements of the respective grade, the following factors: Color, uniformity of size and shape, absence of defects, and texture. The relative importance of each factor is expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

Factors	Points
(i) Color.....	25
(ii) Uniformity of size and shape.....	15
(iii) Absence of defects.....	30
(iv) Texture.....	30
Total score.....	100

(2) "Normal flavor and normal odor" means that the canned carrots are free from objectionable flavor and objectionable odor of any kind.

(h) *Ascertaining the rating of each factor.* The essential variations within each factor are so described that the value may be ascertained for each factor and expressed numerically. The numerical range for the rating of each factor is inclusive (for example, "12 to 15 points" means 12, 13, 14, or 15 points).

(1) *Color.* (i) Canned carrots that possess a good color may be given a score of 21 to 25 points. "Good color" means that the canned carrots possess an orange-yellow color that is bright and typical of canned carrots.

(ii) If the canned carrots possess a fairly good color, a score of 18 to 20 points may be given. Canned carrots that fall into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly good color" means that the canned carrots possess the typical color of canned carrots and such color may be slightly dull but not off-color.

(iii) Canned carrots that are off-color for any reason or that fail to meet the requirements of subdivision (ii) of this subparagraph may be given a score of 0 to 17 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(2) *Uniformity of size and shape.* (i) Canned carrots that are practically uniform in size and shape may be given a score of 12 to 15 points. "Practically uniform in size and shape" has the following meanings with respect to the various styles of canned carrots:

(a) *Whole carrots.* The size of the individual carrot is not more than 1¾ inches in diameter, measured as aforesaid; the carrots may vary moderately in shape and the diameter of the largest unit is not more than 50 percent greater than the diameter of the second smallest unit.

(b) *Quartered carrots.* The carrots from which the quarters have been prepared were of a size not more than 2½ inches in diameter, measured as aforesaid, and the weight of the largest quarter is not more than 50 percent greater than the weight of the second smallest quarter.

(c) *Sliced carrots.* The individual slice is not more than ¾ inch in thickness when measured at the thickest portion; the size of each slice is not more than 2½ inches in diameter, measured as aforesaid, and the diameter of the largest slice is not more than 50 percent greater than the diameter of the second smallest slice.

(d) *Diced carrots.* The units are practically uniform in size and shape with edges other than the rounded outer edges measuring approximately ½ inch or less; and the aggregate weight of all units of irregular shape which are noticeably smaller than one-half the volume of an average size cube and of all noticeably large and large irregular shaped units does not exceed 12 percent of the weight of all the units.

(e) *Julienne, French style, or shoe-string.* The strips of carrots are practically uniform in size and shape, with cross sections measuring approximately ¼ inch, and the aggregate weight of all strips less than ½ inch in length does not exceed 12 percent of the weight of all the strips.

(f) *Cut.* The individual units weigh not less than ¼ ounce and the largest unit is not more than four times the weight of the second smallest unit. When cut longitudinally into two ap-

proximately equal units, the carrots from which the units have been prepared were of a size not more than 2½ inches in diameter, measured as aforesaid, and the weight of the largest unit is not more than 50 percent greater than the weight of the second smallest unit.

(ii) If the canned carrots are fairly uniform in size and shape a score of 8 to 11 points may be given. "Fairly uniform in size and shape" has the following meanings with respect to the various styles of canned carrots:

(a) *Whole carrots.* The size of the individual carrot is not more than 2¼ inches in diameter, measured as aforesaid; the carrots may vary considerably in shape, and the diameter of the largest unit is not more than twice the diameter of the second smallest unit.

(b) *Quartered carrots.* The carrots from which the quarters have been cut were of a size not more than 2½ inches in diameter, measured as aforesaid, and the weight of the largest quarter is not more than twice the weight of the second smallest quarter.

(c) *Sliced carrots.* The individual slice is not more than ¾ inch in thickness when measured at the thickest portion; the size of each slice is not more than 2½ inches in diameter, measured as aforesaid; and the diameter of the largest slice is not more than twice the diameter of the second smallest slice.

(d) *Diced carrots.* The units are fairly uniform in size and shape, with edges other than the rounded outer edges measuring approximately ½ inch or less; and the aggregate weight of all units of irregular shape which are noticeably smaller than one-half the volume of an average size tube and of all noticeably large and large irregular shaped units does not exceed 25 percent of the weight of all the units.

(e) *Julienne, French style, or shoe-string.* The strips of carrots are fairly uniform in size and shape, with cross sections measuring approximately ¼ inch and the aggregate weight of all the strips less than ½ inch in length does not exceed 25 percent of the weight of all the strips.

(f) *Cut.* The individual units weigh not less than ¼ ounce and the largest unit is not more than twelve times the weight of the second smallest unit. When cut longitudinally into two approximately equal units, the carrots from which the units have been prepared were of a size not more than 2½ inches in diameter, measured as aforesaid, and the weight of the largest unit is not more than twice the weight of the second smallest unit.

(iii) Canned carrots that fail to meet the requirements of subdivision (ii) of this subparagraph may be given a score of 0 to 7 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(3) *Absence of defects.* (i) The factor of absence of defects refers to the degree of freedom from defective units. Defective units are units damaged by mechanical injury, unpeeled units, units blemished by brown or black internal or external discoloration, pathological injury

or insect injury and units blemished by other means.

(a) "Damaged by mechanical injury" means crushed, broken, or cracked units, units with excessively frayed edges and surfaces, excessively trimmed units, or damaged by other means.

(b) "Unpeeled unit" means any unit possessing an unpeeled area greater than the area of a circle $\frac{1}{4}$ inch in diameter.

(c) "Blemished" means any unit blemished to the extent that the appearance or eating quality is seriously affected.

(ii) Canned carrots that are practically free from defects may be given a score of 25 to 30 points. "Practically free from defects" has the following meanings with respect to the various styles of canned carrots:

(a) *Whole carrots.* The aggregate weight of all defective units does not exceed 15 percent of the weight of all the units, and of such 15 percent not more than one-half thereof or one carrot, whichever weighs more, may consist of blemished units.

(b) *Sliced, quartered, and cut carrots.* The aggregate weight of all defective units does not exceed 15 percent of the weight of all the units, and of such 15 percent not more than one-half thereof or one slice, quarter or cut, whichever weighs more, may consist of blemished units.

(c) *Diced, Julienne, French style, or shoestring carrots.* The aggregate weight of all defective units does not exceed 10 percent of the weight of all the units, and of such 10 percent not more than one-half thereof may consist of blemished units.

(iii) Canned carrots that are fairly free from defects may be given a score of 22 to 25 points. Canned carrots that fall into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" has the following meanings with respect to the various styles of canned carrots:

(a) *Whole carrots.* The aggregate weight of all defective units does not exceed 25 percent of the weight of all the units, and of such 25 percent, not more than one-half may consist of blemished units.

(b) *Sliced, quartered, and cut carrots.* The aggregate weight of all defective units does not exceed 25 percent of the weight of all the units, and of such 25 percent not more than one-half thereof may consist of blemished units.

(c) *Diced, Julienne, French style or shoestring carrots.* The aggregate weight of all defective units does not exceed 20 percent of the weight of all the units, and of such 20 percent not more than one-half thereof may consist of blemished units.

(iv) Canned carrots that fail to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 21 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(4) *Texture.* (i) The factor of texture refers to the tenderness of the carrots, and the degree of freedom from stringy or coarse fibers.

(ii) Canned carrots that possess a tender texture may be given a score of 26 to 30 points. "Tender texture" means that the carrots are tender, not fibrous, and possess a uniform character.

(iii) If the canned carrots possess a fairly tender texture, a score of 22 to 25 points may be given. Canned carrots that fall into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly tender texture" means that the carrots are fairly tender, may be variable in character but not tough or hard, and may possess a few stringy or coarse fibers.

(iv) Canned carrots that fail to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 21 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(i) *Tolerance for certification of officially drawn samples.* (1) When certifying samples that have been officially drawn and which represent a specific lot of canned carrots, the grade for such lot will be determined by averaging the total score for all containers, if:

(i) Not more than one-sixth of the containers comprising the sample fails to meet all the requirements of the grade indicated by the average of such total scores, and with respect to such containers which fail to meet the requirements of the indicated grade by reason of a limiting rule, the average score of all containers in the sample for the factor, subject to such limiting rule, must be within the range for the grade indicated;

(ii) None of the containers comprising the sample falls more than 4 points below the minimum score for the grade indicated by the average of the total scores; and

(iii) All containers comprising the sample meet all applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act and in effect at the time of the aforesaid certification.

(j) *Score sheet for canned carrots.* The following score sheet may be used to summarize the factors determining the various grades:

Number, size, kind of container.....		
Container marks or identification.....		
Label.....		
Net weight (ounces).....		
Vacuum (inches).....		
Drained weight (ounces).....		
Style.....		
Size of whole carrots (count).....		
Size of sliced carrots (diameter).....		
Factors	Score points	
I. Color.....	25	(A) 21-25 (C) 18-20 (D) 10-17
II. Uniformity of size and shape.....	15	(A) 12-15 (C) 8-11 (D) 10-7
III. Absence of defects.....	30	(A) 26-30 (C) 22-25 (D) 10-21
IV. Texture.....	30	(A) 26-30 (C) 22-25 (D) 10-21
Total Score.....	100	
Grade.....		
Normal flavor and odor.....		

¹ Indicates limiting rule within classification.

(k) *Effective time and supercedure.* The revised United States Standards for Grades of Canned Carrots (which are the third issue) contained in this section shall become effective thirty days after the date of publication of these standards in the FEDERAL REGISTER.

(60 Stat. 1087, 7 W. S. C. 1621 et seq.; Pub. Law 712, 80th Cong., approved June 19, 1948)

Issued at Washington, D. C., this 22d day of July 1949.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Pro-
duction and Marketing Ad-
ministration.

[F. R. Doc. 49-6143; Filed, July 26, 1949;
8:51 a. m.]

TITLE 12—BANKS AND BANKING

Chapter II—Federal Reserve System

Subchapter A—Board of Governors of the Federal Reserve System

PART 220—CREDIT BY BROKERS, DEALERS AND MEMBERS OF NATIONAL SECURITIES EXCHANGES

MISCELLANEOUS AMENDMENTS

1. Effective July 20, 1949, Part 220 is hereby amended in the following respects:

(a) The last sentence of § 220.4 (c) (3) is amended to read as follows:

§ 220.4 *Special accounts.* * * *

(c) *Special cash account.* * * *

(3) * * * If the security when so purchased is a "when distributed" security which is to be distributed in accordance with a published plan, the period applicable to the transaction under subparagraph (2) of this section shall be 7 days after the date on which the security is so distributed.

(b) Section 220.4 (g) is amended to read as follows:

(g) *Specialist's account.* In a special account designated as a specialist's account, a creditor may effect and finance, for any member of a national securities exchange who is registered and acts as a specialist in securities on the exchange, such member's transactions as a specialist in such securities, or effect and finance, for any joint adventure in which the creditor participates, any transactions in any securities of an issue with respect to which all participants, or all participants other than the creditor, are registered and act on a national securities exchange as specialists. Such specialist's account shall be subject to the same conditions to which it would be subject if it were a general account except that if the specialist's exchange, in addition to the other requirements applicable to specialists, is designated by the Board of Governors of the Federal Reserve System as requiring reports suitable for supplying current information regarding specialists' use of credit pursuant to this paragraph, the requirements of § 220.6 (b) regarding joint adventures shall not apply to such account and the maximum loan value of a registered security in such

account shall be as determined by the creditor in good faith.

2. (a) This amendment is issued pursuant to the Securities Exchange Act of 1934, particularly section 7 thereof. One purpose of the amendment is to provide that, in a special cash account, the 7-day period within which payment must be obtained for a so-called "when distributed" security which is to be distributed in accordance with a published plan, may run from the date when the security is distributed rather than from the day of agreement to purchase the security. The other purpose of the amendment is to remove margin requirements applicable to credit for financing the functions of "specialists" on an exchange designated by the Board of Governors of the Federal Reserve System.

(b) The notice, public participation, and deferred effective date described in section 4 of the Administrative Procedure Act are not followed in connection with this amendment for the reasons and good cause found, as stated in section 2 (e) of the Board's Rules of Procedure [12 CFR 262.2 (e)], and especially because in connection with this permissive amendment such procedures are unnecessary as they would not aid the persons affected and would serve no other useful purpose.

(Sec. 3 (a) and (b), Sec. 7 (a), (b), (c) and (d), sec. 8 (a), sec. 17 (b) and sec. 23 (a), 48 Stat. 881, 886, 888, 897, and 901; sec. 8, 49 Stat. 1379; 15 U. S. C. 78c-(a) and (b), 78g-(a), (b), (c) and (d), 78h-(a), 78q-(b), 78w-(a))

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 49-6107; Filed, July 26, 1949;
8:45 a. m.]

PART 220—CREDIT BY BROKERS, DEALERS, MEMBERS OF NATIONAL SECURITIES EXCHANGES

DESIGNATION OF NEW YORK STOCK EX- CHANGE FOR PURPOSES OF SPECIALISTS TRANSACTIONS

§ 220.106 *Designation of New York Stock Exchange for purposes of specialists transactions.* As amended effective July 20, 1949, § 220.4 (g) of Part 220 removes the margin requirements applicable to credit for financing the functions of "specialists" on an exchange designated by the Board of Governors of the Federal Reserve System.

Effective July 20, 1949, the Board of Governors of the Federal Reserve System has designated the New York Stock Exchange pursuant to § 220.4 (g), as amended, this designation to be effective until further notice.

(Sec. 3 (a) and (b), sec. 7 (a), (b), (c) and (d), sec. 8 (a), sec. 17 (b) and sec. 23 (a), 48 Stat. 881, 886, 888, 897, and

901; sec. 8, 49 Stat. 1379; 15 U. S. C. 78c-(a) and (b), 78g-(a), (b), (c) and (d), 78h-(a), 78q-(b), 78w-(a))

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 49-6110; Filed, July 26, 1949;
8:46 a. m.]

PART 221—LOANS BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING REGISTERED STOCKS

MISCELLANEOUS PROVISIONS

1. Effective July 20, 1949, § 221.3 (o) of Part 221 is hereby amended to read as follows:

§ 221.3 *Miscellaneous provisions.*

(o) In the case of a loan to a member of a national securities exchange who is registered and acts as a specialist in securities on the exchange for the purpose of financing such member's transactions as a specialist in such securities, the maximum loan value of any stock shall be as determined by the bank in good faith provided that the specialist's exchange, in addition to other requirements applicable to specialists, is designated by the Board of Governors of the Federal Reserve System as requiring reports suitable for supplying current information regarding specialists' use of credit pursuant to this section.

2. (a) This amendment is issued pursuant to the Securities Exchange Act of 1934, particularly section 7 thereof. Its purpose is to remove the maximum loan value requirements applicable to credit for financing the functions of "specialists" on an exchange designated by the Board of Governors of the Federal Reserve System.

(b) The notice, public participation, and deferred effective date described in section 4 of the Administrative Procedure Act are not followed in connection with this amendment for the reasons and good cause found, as stated in section 2 (e) of the Board's Rules of Procedure (12 CFR 262.2 (e)), and especially because in connection with this permissive amendment such procedures are unnecessary as they would not aid the persons affected and would serve no other useful purpose.

(Secs. 3 (a) and (b), 7, 17 (b), 48 Stat. 882, 886, 897, sec. 23 (a) as amended by sec. 8, 49 Stat. 1379; 15 U. S. C. 78c, 78g, 78q (b), 15 U. S. C., Supp. 78w (a).)

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 49-6108; Filed, July 26, 1949;
8:46 a. m.]

PART 221—LOANS BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING REGISTERED STOCKS

DESIGNATION OF NEW YORK STOCK EXCHANGE FOR PURPOSES OF SPECIALISTS TRANSACTIONS

§ 221.102 *Designation of New York Stock Exchange for purposes of specialists transactions.* As amended effective July 20, 1949, § 221.3 (o) of Part 221 removes the maximum loan value requirements applicable to credit for financing the functions of "specialists" on an exchange designated by the Board of Governors of the Federal Reserve System.

Effective July 20, 1949, the Board of Governors of the Federal Reserve System has designated the New York Stock Exchange pursuant to § 221.3 (o), as amended, this designation to be effective until further notice.

(Secs. 3 (a) and (b), 7, 17 (b), 48 Stat. 882, 886, 897, sec. 23 (a) as amended by sec. 8, 49 Stat. 1379; 15 U. S. C. 78c, 78g, 78q (b), 15 U. S. C., Supp. 78w (a).)

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 49-6109; Filed, July 26, 1949;
8:46 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Supp. 7, Amdt. 7]

PART 60—AIR TRAFFIC RULES

DANGER AREAS

Under sections 205 and 601 of the Civil Aeronautics Act of 1938, as amended, and § 60.13 of the Civil Air Regulations, the Administrator of Civil Aeronautics is authorized to designate as a danger area any area within which he has determined that an invisible hazard to aircraft in flight exists, and no person may operate an aircraft within a danger area unless permission for such operation has been issued by appropriate authority. Such areas have been designated and published.

The following danger area alterations have been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and should be adopted without delay, in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Acting pursuant to sections 205 and 601 of the Civil Aeronautics Act of 1938, as amended, and § 60.13 of the Civil Air Regulations, and in accordance with sections 3 and 4 of the Administrative Procedure Act, I hereby amend the Code of Federal Regulations, Title 14, Chapter I, § 60.13-1, as follows:

1. A San Pedro, California, area is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Using agency
San Pedro (San Diego Chart).	Beginning at lat. 33°42'20" N, long. 118°17'20" W; WNW to lat. 33°42'40" N, long. 118°18'20" W; WSW to lat. 33°41'30" N, long. 118°21'00" W; S to lat. 33°39'00" N; NE to lat. 33°42'20" N, long. 118°17'20" W, point of beginning.	Surface to 3,000 feet....	Daily, 0800 to 1700.....	ORC Training Center, Fort MacArthur, Calif.

2. The Wellfleet, Massachusetts, area is amended by changing the "Description by Geographical Coordinates" column to read: "The area within the sector of a circle with a radius of 25,000 yards centered at lat. 41°56'00" N, long. 69°58'30" W, extending clockwise from a bearing of 345° true to a bearing of 47° true and away from the center of the circle; thence within a radius of 28,250 yards, extending clockwise from a bearing of 47° true to a bearing of 145° true and away from the center of the circle."

3. A Betsie Point, Michigan, area is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Using agency
Betsie Point (Green Bay Chart).	Beginning at lat. 44°43'15" N, long. 86°27'40" W; ESE to lat. 44°41'30" N, long. 86°16'04" W; SSW to lat. 44°20'12" N, long. 86°22'30" W; WNW to lat. 44°21'45" N, long. 86°34'12" W; NNE to lat. 44°43'15" N, long. 86°27'40" W, point of beginning.	Surface to 25,000 feet...	Daylight hours only..	10th Air Force, Fort Benjamin Harrison, Ind.

4. The Dahlgren, Virginia, areas are amended to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Using agency
Dahlgren (Washington and Norfolk Charts).	West Area: Beginning at lat. 38°28'20" N, long. 76°37'00" W; SSE to lat. 38°18'00" N, long. 76°54'00" W; ESE to lat. 38°14'40" N, long. 76°43'25" W; SSE to lat. 38°13'25" N, long. 76°42'50" W; SSE to lat. 38°11'10" N, long. 76°42'20" W; SW to lat. 38°09'55" N, long. 76°44'00" W; W to lat. 38°10'00" N, long. 76°46'00" W; thence along the S shore of the Potomac River to lat. 38°16'00" N, long. 76°59'00" W; WSW to lat. 38°13'00" N, long. 77°07'00" W; NNW to lat. 38°22'30" N, long. 77°10'10" W; NNE to lat. 38°26'30" N, long. 77°08'10" W; ENE to lat. 38°28'20" N, long. 77°01'10" W; due E to lat. 38°28'20" N, long. 76°57'00" W, point of beginning. East Area: Beginning at lat. 38°07'00" N, long. 76°24'30" W; SE to lat. 37°53'10" N, long. 76°14'00" W; thence along the S shore of the Potomac River to lat. 37°59'20" N, long. 76°26'30" W; NW to lat. 38°05'40" N, long. 76°33'32" W; NE to lat. 38°07'25" N, long. 76°30'45" W; ESE to lat. 38°07'00" N, long. 76°28'30" W; due E to lat. 38°07'00" N, long. 76°24'30" W, point of beginning.	Unlimited.....	Continuous.....	Naval Proving Grounds, Dahlgren, Va.
		do.....	do.....	Do.

(Secs. 205 (a), 601, 52 Stat. 984, 1007; Pub. Law 872, 80th Cong.; 49 U. S. C. 425, 551; Reorg. Plans Nos. III and IV of 1940, 3 CFR, Cum. Supp., 5 F. R. 2107, 2421)

This amendment shall become effective on August 1, 1949.

[SEAL] DONALD W. NYROP,
Acting Administrator
of Civil Aeronautics.

[F. R. Doc. 49-6139; Filed, July 26, 1949;
8:49 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter B—Office of Domestic Commerce [Allocation Order R-1]

PART 338—ALLOCATION ORDERS

SUBPART: RUBBER, SYNTHETIC RUBBER AND PRODUCTS THEREOF

Subpart: Rubber, Synthetic Rubber and Products Thereof, §§ 338.71 to 338.85 (Allocation Order R-1) as amended March 14, 1949, is hereby amended to read as follows:

DEFINITIONS

Sec.
338.71 Definitions.

MANUFACTURING REGULATIONS

338.72 Mandatory consumption of synthetic rubber.

Sec.
338.73 Exceptions for experimental purposes.

IMPORT RESTRICTIONS

338.74 Restrictions on importation of rubber products.

REPORTS, VIOLATIONS, APPEALS AND COMMUNICATIONS

338.75 Reports of rubber consumption and stocks.

338.76 Other reports.

338.77 Violations.

338.78 Appeals.

338.79 Communications.

SYNTHETIC RUBBER SPECIFICATIONS

338.85 Synthetic rubber specifications for certain products.

AUTHORITY: §§ 338.71 to 338.85 issued under Pub. Law 469, 80th Cong.; E. O. 9942, Apr. 1, 1948, 13 F. R. 1823, 3 CFR, 1948 Supp.

Definitions

§ 338.71 Definitions. As used in this subpart:

(a) "Natural rubber" means all forms and types of tree, vine, or shrub rubber, including guayule and natural rubber latex, but excluding reclaimed natural rubber.

(b) "Synthetic rubber" means any product of chemical synthesis similar in general properties and applications to natural rubber, and specifically capable of vulcanization, produced in the United States, not including reclaimed synthetic rubber.

(c) "GR-S" means a general-purpose synthetic rubber of the butadiene-styrene type produced in the United States generally suitable for use in the manu-

facture of transportation items such as tires or camelback, as well as any other type of synthetic rubber equally or better suited for use in the manufacture of transportation items such as tires or camelback, as determined from time to time by the President, not including reclaimed general purpose synthetic rubber.

(d) "Special-purpose synthetic rubber" means a synthetic rubber of the type now known as butyl (GR-I), neoprene, or N-types (butadiene-acrylonitrile types) as well as any synthetic rubber of similar or improved quality produced in the United States applicable to similar uses, as determined from time to time by the President, not including reclaimed special-purpose synthetic rubber.

(e) "Consume" means in the case of natural rubber or synthetic rubber, to compound, expend, formulate or in any manner make any substantial change in the form, shape or chemical composition except where any of these materials are used in the preparation of masterbatches or compounds prepared for use in the manufacture of finished products.

(f) "Person" means any individual, firm, copartnership, business trust, corporation, or any organized group of persons whether incorporated or not, and any Government department, agency, officer, corporation, or instrumentality of the United States.

(g) "New RHC" means total new rubber hydrocarbon. This is the total RHC content of natural rubber, synthetic rubber, uncured scrap rubber, uncured in-process materials, and the rubber hydro-

carbon content of master-batches or compounds of new RHC.

(h) "Reclaimed rubber" means any material derived from the processing or treatment of vulcanized rubber or cured scrap rubber.

MANUFACTURING REGULATIONS

§ 338.72 *Mandatory consumption of synthetic rubber.* No person shall manufacture any product listed in § 338.85 in any type and size listed in that section unless it conforms with the synthetic rubber specifications designated in that section for that product. The synthetic rubber used to satisfy the mandatory requirements of § 338.85 shall be that produced by the Government or for its account, or purchased from others by the Government for resale by the Government or for its account. Where specifications for tires and tubes provide for a group average or tolerance such group average or tolerance must be balanced out each calendar month.

(a) *Military orders.* The provisions of § 338.85 shall not be applicable to orders manufactured for the National Military Establishment.

§ 338.73 *Exception for experimental purposes.* Notwithstanding the provisions of § 338.72, any person may use up to a total of 2,000 pounds of natural rubber during any calendar quarter for experimentation in the manufacture of those sizes and types of tires and tubes for which specifications are provided in § 338.85.

IMPORT RESTRICTIONS

§ 338.74 *Restrictions on importation of rubber products.* (a) As used in this subpart, "Import" means to transport in any manner from any foreign country into the continental United States or into any territory or possession of the United States. It does not include shipments into a free port, free zone or bonded custody of the United States Bureau of Customs (bonded warehouse) in the continental United States for trans-shipment to any foreign country.

(b) The importation by any person of any product listed in § 338.85 shall be accompanied by a certificate to be furnished to the Collector of Customs at port of entry, reading substantially as follows:

The undersigned hereby certifies, subject to the criminal penalties for misrepresentation contained in Title 18, U. S. Code (Crimes), Section 1001, that the products covered by the invoice to which this certificate is attached contain at least the same percent of synthetic rubber (of any type and wherever produced) as is required by § 338.85 of Office of Domestic Commerce Allocation Order R-1 for similar products.

Signature _____
Date _____

(c) The restrictions of this section shall not apply to: (1) The importation of products by a diplomatic representative of any foreign government for his personal use or the use of members of his staff, or by a commercial representative of any foreign government for use in his official business and not for sale; (2) the importation for experimental and testing purposes of tires, tubes and camelback and not for sale.

No. 143—3

REPORTS, VIOLATIONS, APPEALS AND COMMUNICATIONS

§ 338.75 *Reports of rubber consumption and stocks.* Every person who consumed or owned at any time during any month, any type of rubbers listed below in an amount in pounds equal to or in excess of the amounts specified below, shall file a monthly report on Form ODC-3410 with the Rubber Division, Office of Domestic Commerce, Department of Commerce, in accordance with the instructions accompanying the form. This report form covers consumption, stocks, receipts, production and shipments.

Types:	Amount (pounds)
Natural rubber.....	15,000
Natural rubber latex (dry latex solids).....	5,000
Reclaimed rubber.....	10,000
GR-S (all types including GR-S latex) ¹	15,000
Butyl (GR-I), all types.....	10,000
Neoprene (all types, including neoprene latex) ¹	5,000
Butadiene-Acrylonitrile types ¹	5,000

¹ Includes all types whether obtained from Government or other sources, including imports.

No monthly report need be filed as to any of these types of rubbers if both rubber consumed and rubber owned were each less than the amounts specified above for the particular types of rubbers.

§ 338.76 *Other reports.* (a) Every person who, during the calendar year, consumed or owned amounts of any of the types of rubber listed in § 338.75, in excess of the amount shown for any type, and who has not reported those types of rubber on Form ODC-3410 for all months of the calendar year, shall file an annual report covering consumption and stocks in accordance with the instructions accompanying the annual report form. This report shall be made on Form ODC-49-1 and shall be filed not later than January 31 following the year being reported.

(b) Each manufacturer of tires, tubes and camelback shall file a report on his production, shipments and inventory for each calendar month on Form ODC-3438 with the Rubber Division, in accordance with the instructions accompanying the form.

(c) Each manufacturer of tires shall file a report of his production of cured tires for each week on Form ODC-4231 with the Rubber Division, in accordance with the instructions accompanying the form.

(d) Any person may be required to file such other reports as may be needed subject to approval by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

§ 338.77 *Violations.* Any person who wilfully violates any provision of this subpart, or who in connection with this subpart wilfully conceals a material fact or knowingly furnishes false information to any department or agency of the United States Government is guilty of a felony, and upon conviction may be punished by fine or imprisonment.

§ 338.78 *Appeals.* Appeals for relief or exemption from any of the provisions

of this subpart or ODC actions thereunder, shall be made in accordance with §§ 336.51 to 336.61 (Allocation Regulation 3), by filing a letter in triplicate with the Rubber Division, specifying the particular provisions appealed from, stating fully the grounds for the appeal, specifying the precise relief desired, and the reasons why the denial of the appeal would result in undue and excessive hardship not suffered by others similarly situated or result in improper discrimination.

§ 338.79 *Communications.* All appeals, all reports to be filed under this subpart and all communications concerning this subpart shall be addressed to: Rubber Division, Office of Domestic Commerce, Department of Commerce, Washington 25, D. C., Ref: R-1.

SYNTHETIC RUBBER SPECIFICATIONS

§ 338.85 *Synthetic rubber specifications for certain products.*—(a) *Tires.* All pneumatic tires, in any size and type listed below, shall contain GR-S in at least the percentage designated below.

Group	Pneumatic tire groups size and type	Percent GR-S of of total natural rubber plus GR-S	
		Minimum group average	Minimum individual tire
1	All 7.50 and down truck tires, All 7.50 and down bus, farm implement, garden implement and industrial tires, not including low platform trailer tires.....	43	1
	All passenger and motorcycle, front farm tractor and garden tractor tires, not including airplane and wire tires.....	43	5
2	All rear farm tractor and all other farm implement tires, not including rice and cane spade grip tires.....	43	5
		80	55

NOTE: The above group averages for Groups 1 and 2 may be reduced by not more than three (3) points, provided the aggregate GR-S consumption in these groups equals the total amount of GR-S which would have been consumed if calculated on the above minimum group averages for Groups 1 and 2.

(b) *Tire tubes.*—(1) *Minimum GR-I content.* Of the new RHC consumed in the manufacture of all types and sizes of tubes, 9.00 and smaller except airplane and bicycle tubes, at least 45% shall be butyl (GR-I).

(2) *Markings on tire tubes.* Every tube containing butyl (GR-I) synthetic rubber listed above shall be marked by the manufacturer with a light blue permanent circumferential stripe approximately $\frac{3}{8}$ " wide, applied on the base section of the tube.

(c) *Camelback.* Of the total new RHC consumed in the manufacture of camelback for tires smaller than size 8.25 with less than 5 $\frac{3}{4}$ " crown width and 1 $\frac{1}{32}$ " gauge, 100% shall be GR-S.

Issued this 22d day of July 1949.

OFFICE OF DOMESTIC
COMMERCE,

[SEAL] By RAYMOND S. HOOVER,
Issuance Officer.

[F. R. Doc. 49-6125; Filed, July 26, 1949;
8:45 a. m.]

Subchapter C—Office of International Trade

[4th Gen. Rev. of Export Regs., Amdt. 24]

PART 372—PROVISIONS FOR INDIVIDUAL AND OTHER VALIDATED LICENSES

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

PART 383—APPEALS

MISCELLANEOUS AMENDMENTS

1. Section 372.9 *Commodity quotas and time for submission of license applications* is amended in the following particulars:

The following commodity and related submission dates are deleted from the table Time Schedules for Submission of Applications for the Exportation of Certain Commodities, for the third quarter, 1949:

Sched- ule B No.	Commodity	Third quarter, 1949
	<i>Other nonferrous ores, metals, and alloys, except precious</i>	
641200	Refined copper in cathodes, billets, ingots, wire bars, or other forms.	June 1 to June 20.

This part of the amendment shall become effective July 22, 1949.

2. In the note following paragraph (e) of § 373.4 the second sentence is amended to read as follows: "Order M-43, as amended, was published in the FEDERAL REGISTER dated June 7, 1949 (14 F. R. 2983 et seq.)."

3. Paragraph (b) (2) of § 383.1 and the note following paragraph (g) of § 383.1 are each amended in the following particulars: The reference "§ 382.13" is substituted for the reference "§ 382.11" in each of these provisions.

(Pub. Law 11, 81st Cong.; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

Dated: July 20, 1949.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49-6104; Filed, July 26, 1949;
8:50 a. m.]

[4th Gen. Rev. of Export Regs., Amdt. P. L. 9]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

STEEL MILL PRODUCTS AND ELECTRICAL MACHINERY AND APPARATUS

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:

The following commodities are deleted from the Positive List:

Dept. of Comm. Sched. B No.	Commodity
	Steel mill products:
	Sash and frames:
604900	Metal fabricated door frames.
	Tubular products and fittings, iron and steel, new and used (except scrap):
606805	Cast-iron soil pipe.
606898	Cast-iron soil pipe fittings.

Dept. of
Comm.
Sched.
B No.

Commodity
709419 Electrical machinery and apparatus: Conduit of iron or steel (formerly 709415).
709420 Other metal conduit (formerly 709418 and 709490).
709490 Metal conduit fittings, including outlet and switchboxes.

This amendment shall become effective July 22, 1949.

(Pub. Law 11, 81st Cong.; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

Dated: July 20, 1949.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49-6103; Filed, July 26, 1949;
8:50 a. m.]

TITLE 18—CONSERVATION OF POWER

Chapter I—Federal Power Commission

[Order 149]

PART 33—APPLICATION FOR SALE, LEASE, OR OTHER DISPOSITION, MERGER, OR CONSOLIDATION OF FACILITIES, OR FOR PURCHASES OR ACQUISITION OF SECURITIES OF A PUBLIC UTILITY

PART 131—FORMS

Correction

Federal Register Document 49-5919, filed on July 18, 1949, at 8:55 a. m., was erroneously published in the Proposed Rule Making section of the issue for Tuesday, July 19, 1949, at page 4495. The document should have appeared in the Rules and Regulations section with the headnotes as set forth above.

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Rent Regulation for Controlled Rooms in Rooming Houses and other Establishments, Amdt. 129]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

OHIO

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is hereby amended in the following respect:

A new Item 54 is hereby incorporated in Schedule B to read as follows:

13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411, 6556, 6882, 6911, 7299, 7672, 7801, 7862, 8218, 8219, 8328, 8388; 14 F. R. 18, 272, 337, 457, 627, 682, 695, 857, 918, 978, 1083, 1345, 1520, 1570, 1582, 1587, 1669, 1670, 1734, 1759, 1869, 1932, 2061, 2062, 2085, 2176, 2237, 2413, 2440, 2441, 2545, 2607, 2608, 2695, 2746, 2761, 2796, 3079, 3121, 3153, 3201, 3234, 3280, 3311, 3353, 3400, 3451, 3468, 3494, 3555, 3617, 3675, 3705, 3746, 3772, 3811, 3812, 3849, 3993, 4482, 4551, 4552.

54. Provisions relating to Franklin County, Ohio, a portion of the Columbus, Ohio, Defense-Rental Area.

Decontrol of specified class of housing accommodations. Effective July 22, 1949, the application of §§ 825.81 to 825.92 is terminated with respect to rooms in Franklin County, Ohio, a portion of the Columbus, Ohio, Defense-Rental Area, which on July 22, 1949, were furnished rooms in rooming houses (other than rooms in hotels, motor courts, trailers and tourist homes), and did not contain any housekeeping facilities.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, 94, and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended by 62 Stat. 37, 94, and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894)

This amendment shall become effective July 22, 1949.

Issued this 22d day of July 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-6124; Filed, July 26, 1949;
8:45 a. m.]

TITLE 41—PUBLIC CONTRACTS

Chapter II—Division of Public Contracts, Department of Labor

PART 202—MINIMUM WAGE DETERMINATION

IRON AND STEEL INDUSTRY; DETERMINATION OF THE SECRETARY OF LABOR

This matter is before the Department pursuant to the act of June 30, 1936 (49 Stat. 2036; U. S. C., Title 41, secs. 35-45) entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes," otherwise known as the Walsh-Healey Public Contracts Act. It arises upon the petition of the United Steelworkers of America that the Secretary of Labor determine the prevailing minimum wage for the Iron and Steel Industry throughout the United States, except the South, to be \$1.23 an hour, and such wage in the South to be \$1.03½ an hour. The Union further requested that the determination provide for employment at a subminimum rate of \$1.18½ an hour, except in the South, and at a subminimum rate of \$1.04 an hour in the South, in occupations and job classifications to which the plant or occupational minima specified in Union agreements are generally applicable. The minima currently in effect for this industry were determined by the Acting Secretary of Labor on January 16, 1939 (41 CFR, Cum. Supp., 202.25) and range from 45 cents to 62½ cents for the six localities established by such wage determination.

General. Notice of a hearing in this matter was published in the FEDERAL REGISTER (14 F. R. 420). The notice advised interested persons of the Union's petition and stated that it was proposed, in conjunction with a reconsideration of the prevailing minimum wage for the industry, to modify the current definition by inserting the word "railroad" following the words "axles" and "wheels" in the list of products, and by inserting the words "except fabric, rubber, and simi-

larly covered" following the words "wire-telephone" in the list of products. The notice also stated that it was proposed to add to the list of products included in the scope of the definition, rods, tin plate, tin mill black plate and terneplate.

Copies of the notice and of a press release announcing the hearing were mailed to trade associations, unions, and to individual companies in the industry. In addition, the press release was distributed to newspapers and trade publications.

This notice and release advised interested persons of the time and place at which they could appear and offer testimony: (1) as to what are the prevailing minimum wages in the industry; (2) as to the proposed change in the definition of the industry; and (3) as to whether there should be included in any amended determination for this industry provision for employment at subminimum rates, and if so, in what occupations, at what subminimum rates, and with what limitations, if any, as to length of period and number or proportion of such subminimum rate employees. The notice also provided that written statements in lieu of personal appearance could be filed at any time prior to the hearing or with the presiding officer at the hearing. It also stated that a tabulation submitted by the Union would be available to interested persons upon request.

The hearing was held on February 23, 24, and 25, 1949, pursuant to the date scheduled in the notice. Representatives of employees and of employers testified, and the record was kept open for a specified period beyond the close of the hearing for reception of additional data and briefs.

The record discloses no reason why the definition of the industry should not be modified as proposed in the notice of hearing. In the interest of clarity it should be noted that, in general, the determination covers only basic iron and steel products. Fabricated products made therefrom, except for those enumerated in the definition (such as, for example, barbed wire, and wire nails and staples) are not within the scope of the industry definition. Among the more important products thus excluded are bridge, building, and other structural members that have been fabricated from basic iron and steel shapes. The record also discloses no need for the determination of subminimum rates other than the type proposed in the Union petition as hereinbefore stated. There thus remains for consideration herein only the matter of what are the prevailing minimum wages in the industry within the meaning of the act.

Minimum wages. Evidence submitted at the hearing showed that the Iron and Steel Industry in the United States is almost entirely unionized. With few exceptions, all companies and plants of any significance in the industry operate under collective agreements.

The rates of \$1.23 and \$1.08½ which the union has requested as minimum rates for the respective areas correspond to rates established under collective agreements with major iron and steel producers in those areas for the class of labor which might be designated as the

common labor group. This class of labor is designated "Job Class 2" in the Standard Steel Industry Job Classification System (commonly known as the "Cooperative Wage Study", or CWS system) of classifying workers, which is widely in use in the industry. The rates of \$1.18½ and \$1.04, which the union has requested be established as subminimum or auxiliary rates in the respective areas, correspond to rates specified in collective agreements with major iron and steel producers in those areas for the class of labor which falls in Job Class 1 (sometimes called Job Class O-1) under the classification system referred to above.

In support of its petition the Union has submitted a comprehensive tabulation showing plant employment, production capacity, union representation and contract minimum wage rates for almost all plants in the country. These data were not seriously questioned at the hearing and it may be assumed in the main that they accurately reflect the true conditions in the industry. These data have been analyzed in relation to the respective localities which were established in the currently effective minimum wage determination for the industry. A summary of such analysis for each such locality is presented herewith.

Locality 1. This locality covers geographically, the entire southern region of the United States and consists of the following States: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia (except six northern counties). Of a total ingot capacity of 4,481,220 tons of this locality 90.7% is in plants observing exactly the requested rate of \$1.08½ for Job Class 2. Only 5.4% is known to be in plants paying less than this figure, and 1.3% is in a plant paying more. Plants having 92% of this capacity pay exactly \$1.04 for Job Class 1 workers, and only 4% of the capacity is in plants paying less. One percent of the capacity is in plants paying above \$1.04 an hour.

With respect to the blast furnace capacity of plants in this locality, 81% is found in plants paying at least \$1.08½ for Job Class 2 employees with some 9% in plants paying less than this figure. The remaining 10% of the capacity is unaccounted for. For Job Class 1, 82% of blast furnace capacity is in plants paying at least \$1.04, with 10% again unaccounted for. Some 10% is found in plants paying less than \$1.04 and 1% in a plant paying 0.5 cent over this figure.

In terms of employment almost 90% is in plants observing \$1.08½ and \$1.04 rates for Job Class 2 and Job Class 1 respectively. With the exception of West Virginia which will be treated at a later point, there is no question that the Union's requested rates represent the prevailing minimum wages for Job Class 1 and Job Class 2.

Locality 2. This locality consists of three states: California, Oregon, and Washington.

Based on ingot capacity (2,514,100 tons), 94% is in plants which have a Job Class 2 rate of \$1.23 or more. Only 3 companies with ingot capacity are be-

low this rate by amounts ranging from 2¢ to 7¢ an hour. The one plant with blast furnace capacity (413,100 tons) pays \$1.23 an hour for Job Class 2 employees.

Over 98% of the ingot capacity is in plants paying at least \$1.18½ an hour for Job Class 1 employees and the one company with blast furnace capacity also observes this figure.

Based on employment, 94% of the workers are employed in plants observing the \$1.23 rate for Job Class 2, while 97% are employed in plants observing the Job Class 1 rate of \$1.18½ an hour.

The proposed rates of \$1.23 and \$1.18½ an hour are clearly the prevailing minimum wages for Job Class 2 and Job Class 1 workers, respectively, in this area.

Locality 3. This locality consists of the states of Arizona, Colorado, Idaho, Montana, New Mexico, Nevada, Utah, and Wyoming.

All of the blast furnace (2,499,200 tons) and ingot capacity (2,555,400 tons) is in plants which observe rates of \$1.23 and \$1.18½ an hour for Job Class 2 and Job Class 1 employees, respectively. Unquestionably, these rates represent the prevailing minimum wages in the area.

Locality 4. This locality covers the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and the area in and about East St. Louis, Illinois.

There are only 4 plants in this locality which have basic ingot capacity, the total production of which amounts to 2,062,020 tons. The three plants in the area having blast furnace capacity produce 1,046,060 tons; only one of these has ingot capacity. Six other plants have neither ingot nor blast furnace capacity although they produce products covered by the definition.

The largest plant in the area, located in Duluth, Minnesota, employs 3,100 workers. This plant has 40.5% of the ingot capacity and 43% of the blast furnace capacity. Rates of \$1.23 for Job Class 2 and \$1.18½ for Job Class 1 are maintained. Another small plant located in Duluth (275 employees) has 12.6% of the blast furnace capacity but no ingot capacity. This plant has a contract calling for \$1.24 an hour as a plant minimum. The Union estimates that employees in jobs equivalent to Job Class 2 in this plant receive \$1.31 but the brief submitted by some of the companies in the area points out that there is no evidence in the record upon which to base any conclusion in this connection.

Two small plants employing 600 persons and having no basic capacity are located in Davenport and Keokuk, Iowa. The first pays 96 cents an hour to Job Class 1 employees and \$1.06 to Job Class 2 employees, the second \$1.05 as a single minimum.

In the East St. Louis area 557 workers are employed in a plant which pays \$1.19½ as a plant minimum. In other plants in the area the range of minimum rates is from 94 cents to \$1.14½ for Job Class 1 workers. For these same plants, the range for Job Class 2 employees is from \$0.985 to \$1.19 an hour. A breakdown reveals the following based on rates of \$1.14½ for Job Class 1 and \$1.19 for Job Class 2 for the entire area.

At \$1.14½ and \$1.19—7,950 employees.
Above \$1.14½ and \$1.19—3,932 employees.
Below \$1.14½ and \$1.19—1,865 employees.

It is clear that the plants in Locality 4 have a prevailing minimum wage rate of \$1.14½ for Job Class 1 employees and a rate of \$1.19 for Job Class 2.

Locality 5. This locality consists of the States of Illinois (except for the area in and about East St. Louis, Illinois), Indiana, Michigan, and Wisconsin.

The total ingot capacity is 21,941,400 tons. Eighty (80) percent of this tonnage is in plants which pay at least \$1.23 an hour for Job Class 2, 69% is found in plants paying \$1.22½ for Job Class 2 employees and 4% in plants paying less than \$1.22½. About 9% of the total ingot capacity is in plants paying from 5 to 20 cents an hour above the requested figure of \$1.23 an hour. Of 15,258,230 tons of blast furnace capacity, 81% is in plants paying at least \$1.23, the other 19% in plants paying only one-half cent below this figure. Plants representing 8% of the Locality's capacity pay between 0.5 cents and 4.5 cents more than the requested figures of \$1.23.

Of the total ingot capacity, 98% is found in plants observing at least the \$1.18½ rate for Job Class 1 employees, while only 2% is in plants paying less. All of the blast furnace capacity is in plants paying at least \$1.18½ for this class of employee.

Of all workers, 82% are in plants paying the Job Class 2 rate of \$1.23, 8% in plants above \$1.23, 15% in plants paying \$1.22½, and 15% in plants paying less than \$1.22½. 80% of the workers are employed in plants observing the \$1.18½ rate for Job Class 1, 8% in plants paying above, and 12% in plants paying less than this figure.

It is clear that the prevailing minimum wages in this area are \$1.23 and \$1.18½ for Job Class 2 and Job Class 1, respectively.

Locality 6. This locality consists of the States of Connecticut, Delaware, District of Columbia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, West Virginia (6 counties only) and Vermont.

The total ingot capacity in this locality is 60,769,320 tons. Of this amount, 91.5% is in plants which pay at or above \$1.23 to Job Class 2 employees. Only 6.6% of the capacity is known to be in plants paying less than \$1.23, with the range from 1 cent to 25 cents an hour less than this figure; 7.8% of the ingot capacity is in plants paying from 0.5 cent to 5 cents an hour above \$1.23.

Of the blast furnace capacity (43,572,680 tons) 96.7% is in plants at or above the \$1.23 rate, and 1.4% in plants paying less. Some 7% of the blast furnace capacity is in plants paying from 1 cent to 6 cents an hour more than \$1.23 an hour.

Similarly for Job Class 1 employees, only 5.6% of the ingot capacity is below the \$1.18½ figure with 8.6% in plants paying more by 0.5 cent to 9.5 cents an hour. Based on blast furnace capacity only 0.4% of the total capacity is in plants paying less than the requested

\$1.18½ rate; 6.9% is above by amounts ranging from 3 cents to 8.5 cents an hour.

Of the total known employment 75% is in plants at the \$1.23 rate, and 11% in plants paying more. Almost half of the workers employed in plants which do not observe this rate are in plants which do not have either basic blast furnace or ingot capacity. This indicates that they are relatively small plants or those primarily engaged in fabricating, although some products covered by the definition may be produced.

With respect to Job Class 1 employees, 76% are in plants paying \$1.18½ an hour, and 14% in plants paying above this rate. About half of the remaining employees are in plants not having basic capacity.

Based both on capacity and employment the conclusion must be reached that the prevailing wages are \$1.23 for Job Class 2 and \$1.18½ for Job Class 1. There is apparently no concentration of plants in this locality at rates below these figures.

The evidence presented in the record discloses no basis for continuing the division of West Virginia between Locality 1 and Locality 6. From a geographic and competitive viewpoint, the iron and steel industry in the entire state of West Virginia more logically belongs in Locality 6, and I will for the purposes of this determination so consider it.

Over a score of representatives of employers testified at the three-day hearing and presented their arguments. Several filed post-hearing data and briefs. However, no substantial error in the Union's factual presentation has been disclosed.

Among the arguments advanced by company spokesmen was one urging the establishment of two southern localities instead of the one locality for the South as provided in the current determination. Such request was made by a steel company located in Atlanta, Georgia, and it proposed a separate locality for the South to include the States of Florida, Georgia, North Carolina, South Carolina, Tennessee, and Virginia. While the plants in the proposed new locality pay less than the wages requested by the Union, this fact alone does not warrant the establishment of a differential in favor of plants in these states. The record shows that in terms of capacity the importance of the nine plants in these states is negligible, and the company in question has ingot capacity of only 165,000 tons. There is a smaller difference between rates maintained in this plant and those requested by the Union than is found in many other localities between low paying plants and the standard rates asked. Certainly operations in this plant are more similar to those in Birmingham than to those in other companies in the area. The latter appear to be predominantly fabricators, although some covered items are made. Finally, the situation with respect to relative differences in wages and economic relationships has not changed appreciably since 1939, a fact admitted by the company in its statements. There is no real geographical, economic or competitive separation between these states and the rest of the South, and I can find no basis for

establishing these states as a separate locality.

The Rail Steel Bar Association, representing a number of small plants engaged in the production of bars and other articles from used railroad rails, filed a brief requesting that these plants be excluded from the industry for wage determination purposes. Representatives of individual companies also testified and argued in support of such a request at the hearing. They contended that their methods of operation and products can be distinguished from those of the basic steel industry, but it was brought out at the hearing that many of their products are probably not included in the definition of the industry. These re-rolling mills are found in all parts of the country, many in cities having large integrated plants, and they compete with other plants for the furnishing to the Government of products which fall within the scope of the industry definition. There are many other small, non-integrated plants making specialized products which face similar problems and it does not appear proper to exclude these re-rolling mills while including the others. Although the Association's argument is based on considerations of specialized equipment and raw material used, it appears that the small size of the plants is an important reason for its request. The Association made a somewhat similar argument in 1939 but the Public Contracts Board and the Secretary of Labor held that the operations of these firms should properly be covered by the wage determination. The record here discloses no compelling reasons for excluding the products of re-rolling mills from the industry as herein defined.

Several industry representatives contended also that the rate under collective bargaining agreements, pursuant to the Standard Steel Industry Job Classification System, for Job Class 1 should be determined as the prevailing minimum wage within the meaning of the act. The Union contended, however, that the common labor group to which the 1939 determination was keyed falls primarily in what is now known as Job Class 2. Job Class 1 includes generally such employees as fell below the level of the original common labor group in 1939 and represents only the very lowest levels of the common labor group. The currently effective determination ignored these sub-minimum workers but the Union now believes that they should be provided for in line with existing agreements. The description of these Job Class 1 workers indicates that the workers in this job class are essentially a group of auxiliary employees. Under the CWS, the various work elements comprising specific jobs are individually analyzed and given numerical weights, the total of which determine the job class allocation. Generally stated, in plants where the system is in operation jobs fall within the lowest job class, i. e., Job Class 1, only when they involve: no pre-employment training or experience or training on the job; a minimum of mental skill and effort; a minimum of manual skill; no significant degree of responsibility for equipment or materials or for

plant operations; no significant hazard or unusually unfavorable working conditions; and, no more than average physical effort. This group constitutes a very small part of the working force—possibly one percent—as compared to the significant cluster of 8 to 10 percent of the employees in Job Class 2. It appears proper and consistent with the evidence presented in the record to establish both a minimum wage and a subminimum wage for auxiliary workers in the iron and steel industry.

Other arguments were made by industry representatives. These included contentions that no amendment of the current determination should be made due to economic conditions at this time, that extensive unionization in the industry rendered an amendment unnecessary, that an amendment increasing prevailing minimum wages would require the raising of the wages of all workers to maintain existing wage differentials among the employees, that some companies would be required to pay wages higher than those provided in collective bargaining agreements, that some companies, primarily those which may be considered as representing "small business," would be required to give up the prospect of bidding in response to Government invitations, and that increasing the prevailing minimum wages in the industry would adversely affect other industrial establishments in the vicinity of iron and steel plants.

All these arguments have been carefully considered. They are based in large part on considerations of public policy, and do not invalidate or outweigh the Union's factual presentation when viewed in the light of the Act's purpose as interpreted by the Supreme Court of the United States. Thus, the Court has said: (*Perkins v. Lukens Steel Co.*, 310 U. S. 113) that in this legislation Congress "did no more than instruct its agents" to fix conditions "under which the Government will permit goods to be sold to it" and that "the Secretary of Labor is under a duty to observe these instructions."

Some of the employer representatives also contended that the Union's request for a subminimum rate to be applied to a specified list of auxiliary workers would be difficult of enforcement if adopted. In appraising this contention, the lists submitted by the union and a number of firms in the industry of the occupations and operations performed by Job Class 1 workers were carefully analyzed in the light of the possible problems that might occur with respect to such plants as do not currently operate under the Standard Steel Industry Job Classification System. I find that such occupations may be defined with reasonable accuracy and that it is not likely that serious administrative difficulties will arise from my adoption of the union's proposals for an auxiliary classification.

In opposing any determination at this time a number of industry representatives also sought to base arguments on the voluntary steel allocation program and the recent "basing point" decisions by the Supreme Court. In view of the

fact, however, that the rates set forth in the current determination—45 cents to 62½ cents an hour—are admittedly not the "prevailing minimum wages" at this time, these arguments must be considered as being without sufficient merit to warrant withholding the issuance of an amendment to the existing determination for the iron and steel industry.

Amendment of determination. After consideration of the entire record of this proceeding, the prevailing minimum wage determination for the Iron and Steel Industry is hereby amended to read as follows:

§ 202.25 Iron and Steel Industry—

(a) **Definition.** The Iron and Steel Industry is defined to mean and include the business of producing and selling all or any one or more of the following products:

Axles, railroad—rolled or "forged."
Dale ties—single loop.
Bars—alloy steel, hot rolled.
Bars—cold finished, carbon and alloy.
Bars—concrete reinforcing, straight lengths.
Bars—ingots, blooms and billets—iron.
Bars—tool steel.
Ferro-manganese and spiegeleisen.
Girder rails and splice bars therefor.
Ingots, blooms, billets and slabs—alloy.
Ingots, blooms, billets and slabs—carbon.
Light rails—60 pounds or less per yard—and splice bars and angle bars therefor.
Standards tee rails of more than 60 pounds per yard—and angle bars and rail joints therefor, or any of such products.
Mechanical tubing.
Pig iron—foundry, high silicon silvery, malleable, open hearth basic, Bessemer and high silicon Bessemer.
Pig iron—low phosphorus.
Pipe—standard, line pipe and oil country tubular products.
Plates.
Posts—fence and sign.
Railroad tie plates.
Railroad track spikes.
Rods.
Sheet bars.
Sheets.
Skelp.
Steel sheet piling.
Strip steel—cold rolled.
Strip steel—hot rolled.
Structural shapes.
Terneplate.
Tin mill black plate.
Tin plate.
Tubes—boiler.
Tube rounds.
Wheels, railroad—car, rolled steel.
Wire—drawn.
Wire hoops—twisted or welded.
Wire nails and staples, twisted barless wire, barbed wire, twisted wire fence stays and wire fencing (except chain-link fencing).
Wire rods.
Wire—spring.
Wire—telephone (except fabric, rubber, and similarly covered).

(b) **Minimum wage.** (1) The minimum wage for employees (other than auxiliary workers) engaged in the performance of contracts with agencies of the United States subject to the provisions of the Act for the manufacture or supply of products of the Iron and Steel Industry, arrived at either upon a time or piece-work basis, shall be the amount indicated for each locality as follows:

(i) **Locality A.** \$1.08½ per hour, in the locality consisting of the states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina,

Oklahoma, South Carolina, Tennessee, Texas, and Virginia;

(ii) **Locality B.** \$1.23 per hour, in the locality consisting of the states of California, Oregon, and Washington;

(iii) **Locality C.** \$1.23 per hour, in the locality consisting of the states of Arizona, Colorado, Idaho, Montana, New Mexico, Nevada, Utah, and Wyoming;

(iv) **Locality D.** \$1.19 per hour, in the locality consisting of the states of Illinois (East St. Louis area only), Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota;

(v) **Locality E.** \$1.23 per hour, in the locality consisting of the states of Illinois (except for the area in and about East St. Louis, Illinois), Indiana, Michigan, and Wisconsin;

(vi) **Locality F.** \$1.23 per hour, in the locality consisting of the states of Connecticut, Delaware, District of Columbia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

(2) Auxiliary workers, as hereinafter defined, shall be paid, either upon a time or piece work basis, not less than the amount indicated for each locality as follows:

(i) \$1.04 per hour in Locality A.
(ii) \$1.18½ per hour in Localities B, C, E, and F.

(iii) \$1.14½ per hour in Locality D.

(3) Bona fide apprentices in skilled crafts, during the first six months of apprenticeship, may be paid at the same rates specified herein for auxiliary workers in the respective localities.

(c) **Auxiliary workers.** The term "auxiliary" workers as applied to employees in the Iron and Steel Industry shall mean the following:

(1) In plants where a Standard Steel Industry Job Classification System is in effect as the result of agreement between the company and the United Steelworkers of America, employees who are employed in occupations bearing the classification "Job Class O-1" or "Job Class 1", and;

(2) In all other establishments, employees who are employed in the following occupations or combinations of occupations, as described:

(i) **Packing.** Weighing, classifying, and sorting materials to be packed; baling, tying, boxing, packaging, strapping, bundling, bagging, wrapping or otherwise packing materials; nailing, gluing, fastening, tying, wiring, banding or otherwise sealing containers or packages.

(ii) **Marking.** Attaching or placing identifying marks or addresses on materials, containers, bundles, or packages by means of marking, stamping, gluing, labeling, tagging, ticketing, painting, stencilling, punching, or other method, by hand, tool, or machine.

(iii) **Package or container making.** Forming cartons and assembling boxes, kegs, barrels, crates, and other containers; performing necessary nailing, stitching, and similar operations; repairing defective and damaged containers and parts of containers.

(iv) **Scrap handling.** Gathering, winding, baling, separating, weighing,

classifying, boxing, and otherwise collecting scrap materials.

(v) *Utility work.* Performing miscellaneous operations such as (a) carrying hose, pipe, paint, clay, oil, water, brick, lumber, and other materials to the required place; (b) hooking, unhooking, coupling, uncoupling, and similar operations with slings, hoists, chains, hooks, and similar equipment; (c) lifting to and removing materials from machines; (d) piling and storing containers, sheets, pipes, and other materials; (e) cutting or shearing by the use of hand tools; (f) oiling, greasing, cleaning, and washing of equipment, tools and materials; (g) manually moving and distributing dollies, trucks, skids, buggies and similar equipment; (h) manually filing and chipping off burrs, edges, and other imperfections; (i) operating simple ("on and off" controls); (j) maintaining "coke-jack" and similar fires to prevent freezing of equipment such as switches, valves, pipes; and (k) capping, oiling,

and cleaning pipes, tubes, couplings and similar products.

(vi) *Conveying and hand trucking.* Loading on and unloading materials and supplies from conveyers, dollies, trucks, cars, elevators, buggies, and other means of transportation, or transporting by means of hand conveyances.

(vii) *Custodial and janitorial work.* Cleaning, mopping, sweeping, and washing of halls, stairways, floors, windows and other parts of the premises and keeping the working areas and equipment in a clean and orderly manner.

(viii) *Tallying.* Operating mechanical counter or recording by hand, amounts of materials, supplies, tools and finished products.

(ix) *Messenger work.* Delivering to and collecting from individuals or departments, incoming and outgoing mail, schedules, reports, timecards and similar items.

(x) *Material preparing.* Cutting to size burlap, paper, wire, lumber and other materials used in packing or ship-

ping operations; preparing and bagging salt, silicon, aluminum and other supplies; and preparing paints and similar solutions.

(d) *Affect on other obligations.* Nothing in this determination shall affect any obligations for the payment of minimum wages that an employer may have under any law or agreement more favorable to employees than the requirements of this determination.

(e) *Effective date.* This determination shall be effective and the minimum wages hereby established shall apply to all contracts subject to the Public Contracts Act, bids for which are solicited or negotiations commenced on or after August 27, 1949.

(49 Stat. 2036; 41 U. S. C. 35-45)

Dated: July 21, 1949.

MAURICE J. TOBIN,
Secretary of Labor.

[F. R. Doc. 49-6122; Filed, July 26, 1949; 8:48 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 903]

HANDLING OF MILK IN ST. LOUIS, MO., MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND TO PROPOSED AMENDMENT TO ORDER, AS AMENDED

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR 900.1 et seq.), a public hearing was held at St. Louis, Missouri, on September 20 to 24, and September 27 to 29, 1948, all dates inclusive, pursuant to a notice issued on September 14, 1948 (13 F. R. 5334).

Upon the basis of the evidence introduced at such hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on May 25, 1949, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER June 1, 1949 (14 F. R. 2858).

The material issues presented on the record were whether:

(1) The terms "Secretary," "Department of Agriculture," "city plant," "country plant," "pool plant," "nonpool plant," "producer-handler," and "other source milk" should be defined; and the definitions of the terms "producer,"

"handler," and "delivery period" should be revised;

(2) The powers of the market administrator should be revised to include the authority to make rules and regulations to effectuate the terms and provisions of the order, and to recommend amendments to the Secretary; and the duties of the market administrator should be revised to require verification of all reports and payments required to be made by handlers pursuant to the provisions of the order;

(3) The provisions of the order relating to the classification of milk should be revised (i) to provide for the classification of certain products as Class I milk instead of Class II milk; (ii) to provide for a reduction in the percentage of the receipts of a handler, accounted for as actual plant shrinkage of producer milk, which could be classified as Class II milk, and to provide for the classification as Class II milk of a limited amount of unaccounted for other source milk received by a handler; (iii) with respect to the disposition of milk, skim milk, and cream to plants more than 110 miles from St. Louis, Missouri; (iv) with respect to transfers between handlers and producer-handlers; (v) with respect to transfers from a country plant to a city plant; (vi) with respect to milk or butterfat accounted for in excess of a handler's receipts of milk or butterfat; (vii) with respect to the allocation of milk classified to receipts of producer milk and receipts from other sources; and (viii) with respect to clarification of the responsibilities of handlers in determining the classification of milk and the reclassification of milk used or reused by the receiving handler or by another handler;

(4) The Class I and Class II price differentials to be added to the basic formula price in determining the price for

Class I and Class II milk for the various months of the year should be revised, and such differentials should be adjusted in relation to the supply and sales of milk;

(5) The basic formula price used in determining the price for Class I and Class II milk should be revised to provide for the determination of such class prices for milk received during the delivery period on the basis of the basic formula price computed for the preceding delivery period rather than the current delivery period;

(6) The class prices which handlers are required to pay should be adjusted by a butterfat differential in accordance with the use made of butterfat in milk received from producers;

(7) An adjustment should be made in the location differential to handlers for milk purchased from producers at plants located outside of the marketing area;

(8) Any unpaid obligations of a handler or of the market administrator should bear interest at the rate of one-half of 1 percent per month until paid;

(9) A market-wide pool should be established in lieu of the present individual-handler pool;

(10) The pro rata assessment against each handler should be increased to provide sufficient funds to the market administrator for the administration of the order;

(11) The deductions to be made by handlers in making payments to producers, who are not members of a qualified cooperative, should be increased to provide sufficient funds to the market administrator for the performance of marketing services to such producers;

(12) The administrative provisions of the order should be clarified with respect to the required records and facilities to be made available to the market administrator and the application of

the various provisions of the order in the event any provision is held invalid; and

(13) The various provisions of the order should be rewritten to conform with any amendments thereto.

Rulings on exceptions. Exceptions to the recommended decision were filed on behalf of Sanitary Milk Producers and the several handlers who would be subject to the proposed marketing agreement and to the proposed order amending the order, as amended. In arriving at the findings, conclusions, and actions decided upon in this decision each of the exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings, conclusions, and actions decided upon herein with respect to the several issues are at variance with the exceptions pertaining thereto such exceptions are overruled.

Exceptions filed on behalf of handlers in the market raise a question as to the responsiveness of the record to present conditions. It is impossible to issue a marketing agreement or an order amendment in accordance with the Administrative Procedure Act without projecting the basic material facts disclosed by the hearing record or assuming that such facts continue to exist during the interval between the close of the hearing and the issuance of the order or regulation based upon such record. The handlers in their exceptions do not point out any material changes in the basic facts as disclosed by the record. A careful review of the record discloses that all of the findings and conclusions of the Assistant Administrator were based upon evidence contained in the hearing record at the time of the hearing and not upon any intervening facts.

Findings and conclusions. The findings and conclusions with respect to the aforementioned material issues, all of which are based on the evidence introduced at the hearing and the record thereof, are as follows:

(1) **Definitions.** (i) A definition of "Secretary" should be included in the order provisions and such term should be defined as "the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties, pursuant to the act, of the Secretary of Agriculture." This definition is proposed in lieu of the present definition of "War Food Administrator" who, during the war period, was delegated certain powers of the Secretary with respect to this and other marketing agreements and orders. Since the position of War Food Administrator has been abolished and his delegated powers returned to the Secretary, it is desirable that a definition of Secretary be substituted therefor. As a conforming change it is proposed that the word "Secretary" be substituted for "War Food Administrator" wherever it appears in the present order.

(ii) A definition of "Department of Agriculture" should be included to shorten the language in subsequent sections of the order.

(iii) The terms "city plant" and "country plant" should be defined so as to distinguish between what are commonly

known as country receiving stations and city distributing plants. Milk disposed of for fluid uses in the St. Louis marketing area is received from producers at plants (city plants) approved by the appropriate health authority, where bottling facilities are maintained and from which wholesale and retail routes are operated within the marketing area; as well as at plants (country plants) approved by the appropriate health authority to furnish milk for fluid uses to city plants. It is necessary to define such plants in conformity with the recommended method of classifying sales of milk from a country plant to a city plant of another handler.

A proposal was also made to include definitions for the terms "pool plant" and "nonpool plant" in connection with the proposed substitution of a market-wide pool for the present individual-handler pool. In view of the conclusion contained herein that the proposal for a market-wide pool should be denied, these definitions are not needed.

(iv) A definition of "producer-handler" should be included in the order provisions and such term should be defined as "any person who is a producer and who processes milk from his own farm production distributing all or a portion of such milk within the marketing area as Class I milk but who receives no milk from other producers." Other provisions are proposed which specify the classification and pricing of milk received by a handler from a producer-handler and provide for the classification of milk sold by a handler to producer-handlers. This definition will shorten the language of the order.

(v) A definition of "other source milk" should be included in the order provisions and defined as "all skim milk and butterfat transferred in any form by a producer-handler to a handler and all skim milk and butterfat in any form received from a source other than a producer, a city plant, or a country plant, except any Class II nonfluid milk product which is received and disposed of in the same form." This term is defined to facilitate the drafting and shorten the language of the order. Producers argued that milk received by a handler from a producer-handler should be considered as a receipt of other source milk. Although milk produced by a producer-handler meets all of the requirements of regular producer milk such milk is not available for regular purchases by handlers. Producer-handlers normally dispose of their milk during most of the year in Class I products. Under these conditions the pooling of any surplus milk purchased by a handler from producer-handlers would result in higher prices to producer-handlers than to regular producers shipping to such handler since the milk disposed of by a producer-handler as Class I milk is not pooled with producer milk. In order to afford the same treatment of receipts of milk, skim milk, and cream from a producer-handler as a receipt of other source milk, it is concluded that such receipts from producer-handlers should be included in the definition of other source milk.

Class II nonfluid milk products received and disposed of in the same form are excluded from the definition of other

source milk since such products are not commingled with producer receipts and the allocation provisions provide for the deduction of other source milk from the lowest use class after deduction of allowable shrinkage. It is concluded that the work of both handlers and the market administrator will be simplified if handlers are not required to report and classify such nonfluid milk products. A handler is not relieved, however, of the responsibility of keeping records of receipts and utilization of such nonfluid milk products since such records are essential in establishing the utilization of milk reported by such handler.

(vi) The terms "producer" and "handler" should be revised to conform with the adoption of definitions for the terms "city plant" and "country plant." This revision does not change the application of any of the provisions of the order to any person or persons.

(vii) The definition of "delivery period" should be revised to include a calendar month or the portion thereof during which the order or any amendment thereto is in effect. The revised definition provides for a delivery period of less than one month duration in case of suspensions, terminations, or amendments made effective on a day other than the first of a calendar month, which require separate pool computations.

(2) **Powers and duties of the market administrator.** The powers of the market administrator as set forth in § 903.2 (b) should be revised to include all of the powers authorized by the Agricultural Marketing Agreement Act of 1937, as amended, to be delegated to the market administrator. This revision is needed to clarify the position of the market administrator with respect to his power to make rules and regulations to implement the provisions of the order and to recommend amendments to the Secretary. As indicated these powers, as well as the power to administer the terms and provisions of the order and to receive, investigate, and report to the Secretary complaints of violations of the terms and provisions of the order, are fixed by law.

Section 903.2 (c) defining the duties of the market administrator should be revised to include the verification of all reports and payments by each handler by audit, if necessary, of each handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat of such handler depends. For purposes of clarification such duty should be specifically set forth in the order. By so doing there is no intent to require the market administrator to perform additional duties.

(3) **Classification of milk.** The conclusions relating to classification of milk are as follows: (i) The provisions of the order relating to the classification of milk should be revised to provide for the classification in Class I, instead of in Class II, of all skim milk, buttermilk, flavored milk drinks, and cream disposed of by a handler in fluid form.

Heretofore the order has provided nominally for two classes of milk although, in fact, a third class has been provided for milk converted during certain months of the year into evaporated

milk in hermetically sealed containers. Only milk disposed of in fluid form and skim milk and butterfat the utilization of which is not established as having been used or disposed of in any form other than as milk have heretofore been in Class I. Skim milk, buttermilk, flavored milk, flavored milk drinks, cream, and all manufactured uses of milk have been in Class II with a special price provided for milk made into evaporated milk during January through June of each year.

The classification scheme herein decided upon would result in milk and those products required by the health ordinances of the marketing area to be derived from milk produced under the sanitary standards of the health authorities in the marketing area being placed in Class I. Such products as butter, cheese, condensed and evaporated milk, and other milk products, which need not be made from graded milk and which normally are made from such milk only at times when a handler's supply of graded milk is in excess of his needs for graded milk, would be placed in Class II.

The health ordinances in effect in the several political subdivisions of the marketing area require that milk disposed of for consumption as milk and milk used to produce skim milk, buttermilk, flavored milk, flavored milk drinks, and cream be derived from milk produced in conformity with the sanitary standards of the local ordinances. In accordance with these ordinances, milk producers in the local supply area are inspected by the local health authorities and those producers in the area who meet the standards are given certificates of permission to ship to the marketing area. Normally only inspected producers are allowed to provide the milk disposed of as milk, cream, skim milk, buttermilk, flavored milk, and flavored milk drinks. In years of shortage, however, it has been the practice to allow the importation of milk, skim milk, and cream from sources outside the local milkshed. Such importations must meet sanitary standards similar to those applying to milk produced in the local supply area.

A major principle of milk classification systems is that uses of milk with similar economic values are placed in the same class. Because the milk and all the products of milk which it is concluded should be placed in Class I must be derived from milk that meets the standards of the local sanitary ordinances (even though upon occasion such milk and products may be imported from outside the local supply area), the costs of producing this milk, insofar as the sanitary standards have any effect, are the same for all uses. Moreover, it is the practice in this market to ship in whole fluid form all milk from producers needed in the marketing area for milk, cream, and other ordinance products. Products such as cream and condensed skim milk for use in the marketing area are not concentrated at country points but are made at plants in the marketing area. Some cream, however, is shipped into the market during times of shortage from outside the local supply area. Because all milk produced

within the supply area for use as milk, cream, and other ordinance products must meet the same sanitary standards and is shipped in the form of whole fluid milk to the marketing area, and because there are no substitutes, at lower prices, for local milk in these uses, it is concluded that all milk used in milk, cream, and other ordinance products has the same economic value and, hence, must be placed in the same class, i. e., Class I.

Handlers excepted to the classification of cream in Class I contending that there was no proposal for the elevation of cream to Class I and that the handlers had no opportunity to present evidence as to the incorrectness of such classification. Proposal No. 13, as included in the hearing notice, was submitted by the handlers themselves and specifically stated that the classification and pricing provisions be opened for consideration and the receipt of evidence pertaining to the entire problem of classification and pricing of milk. The testimony on the record with reference to the revision in the classification of skim milk, buttermilk, flavored milk, and flavored milk drinks is equally applicable to fluid cream.

Handlers further excepted to the pricing of skim milk and butterfat contained in cream, skim milk, buttermilk, flavored milk, and flavored milk drinks on the same basis as that contained in fluid milk contending that historically these items have not had the same values as fluid milk in the St. Louis marketing area. In this connection, it is pointed out that if the Secretary were confined by, and perpetuated, all of the historical relationships existing in a market he could not carry out his responsibilities under the provisions of the act. Furthermore, the separate accounting and pricing of skim milk and butterfat in itself does, as a matter of fact, under certain conditions price milk utilized in these items lower than fluid milk.

Handlers emphasized particularly that producers are entitled only to a given uniform price and that the particular classification of the several milk products by which this given uniform price is accomplished is of little concern to producers or to anyone else except the handlers. Assuming that producers are entitled to a particular level of the uniform price the classification method by which such price is returned to producers is nevertheless of great concern to them and to the public generally. In terms of producer interests, a wide divergency between the Class I price and the uniform price represents a weakness in the price structure which can result in breakdown of the entire regulatory program. If all products with values such that they should be classified in Class I are not so classified but are priced at a lower level, it is necessary to maintain a higher Class I price in order to return the desired uniform price to producers. The divergency under these circumstances between the Class I price and the uniform price is increased and the price structure is weakened.

Milk consumers have perhaps an even more immediate interest in the classification system. If all products which because of economic circumstances

should be placed in Class I and thereby bear their share of supporting the uniform price to producers, are not placed in Class I, but are priced lower, then the Class I price must be at a higher level than otherwise would be necessary. Thus, if cream and skim milk drinks are not placed in Class I, consumers who use products of Class I, e. g., fluid milk, are required insofar as the Class I price is a factor in resale prices to pay higher prices for milk in order that the consumers of cream and other products not in Class I may purchase these products at lower prices. In effect such a system requires consumers of whole milk to subsidize consumers of cream and by-products. This obviously is unfair to fluid milk consumers.

All this is not to say that where economic conditions in a particular milk market compel differences in the price of milk as compared to cream and by-products that this should not be done. But economic conditions in this market appear to demonstrate, as indicated above, that the values for fat and skim milk when disposed of to consumers in the form of milk, cream, and certain by-products are equal and hence, despite historical precedent and other considerations advanced by handlers such products must be placed in Class I.

Because of the day-to-day variations in delivery and sales of milk in St. Louis and especially because of the seasonal variation in the supply of milk produced in the St. Louis milkshed there are quantities of milk delivered to the marketing area not used or needed for use as Class I milk. This milk must be converted into various manufactured products such as butter, cheese, ice cream, evaporated and condensed milk. The products of this surplus milk must be sold in competition with similar products made from milk which does not meet the sanitary standards for milk in the marketing area and which is sold at prices lower than those which must apply to graded milk. If the prices for excess graded milk are too high in relation to the prices for ungraded milk, handlers will not purchase this excess milk from producers. It is necessary, therefore, that a class be established in which milk in excess of the market's needs for Class I may be classified, and a price applied to such class which is in appropriate relationship to the prices paid for ungraded milk in manufacturing uses. Such excess milk in the St. Louis marketing area is used in the form of butter, cheese, ice cream, condensed and evaporated milk, and other manufactured products. It is therefore concluded that these products should be classified as Class II milk.

A proposal was made at the hearing to designate the products to which the local sanitary standards apply as "ordinance products." To the extent that there are now certain products which must be made of locally inspected milk and which are not otherwise designated in the classification scheme this is an appropriate designation of such products. To the extent, however, that the purpose of such proposal was to provide an automatic change in classification of milk used to produce ice cream in the event that health authorities in the marketing

area require that ice cream be made of locally inspected milk and thereby become an "ordinance product" the proposal should not be adopted. If the local health authorities should require that milk utilized in ice cream meet the local sanitary standards, it will be necessary to consider whether such milk should be classified as Class I milk. The hearing record, however, does not disclose all of the pertinent detail regarding the prospective changes in the health ordinances with reference to ice cream, and it is not assured at this time that all of the circumstances of ice cream production will be such that the proper classification would result by the use of the term "ordinance product." For this reason ice cream should continue to be classified as Class II milk. If a substantial change in the sanitary standards develops, it will be appropriate to reconsider the classification of milk made into ice cream at a future hearing.

(ii) The proposal to amend the provisions of the order relating to the classification of plant shrinkage of skim milk and butterfat so as to provide for the classification as Class II milk: (a) All unaccounted for skim milk and butterfat in milk received from producers which is not in excess of 2 percent of such receipts of skim milk and butterfat, respectively; and (b) all unaccounted for skim milk and butterfat in receipts of other source milk, should be adopted.

The present provisions of the order provide that actual plant shrinkage which does not exceed 3 percent of the total receipts of milk from producers, shall be classified as Class II milk. No provision is made, however, for the classification as Class II milk of plant shrinkage of skim milk and butterfat in receipts of other source milk.

While handlers admitted that shrinkage on fluid operations can be held to 2 percent, they argued that the allowable shrinkage should be increased to include 3 percent of receipts from all sources. For several years the receipts of milk from producers, during most months of the year, have been utilized almost exclusively in fluid products. The record indicates that for the years of 1946 and 1947 the total shrinkage experienced on receipts of producer milk and other source milk, which included receipts of substantial quantities of ungraded milk manufactured into byproducts, by handlers operating in the St. Louis, Missouri, marketing area averaged approximately 2.5 percent. Since receipts of milk from producers are utilized primarily in fluid products in the St. Louis market, it is believed that the allowable shrinkage on such milk should be limited to 2 percent of such receipts.

Since the provisions relating to the allocation of classified milk to the receipts of milk from producers provide for the subtraction of the receipts of other source milk from the lowest-priced available class, no specification is made as to the maximum shrinkage which can be allowed on such receipts. In the event producer milk and other source milk are both received in a country plant or a city plant, the shrinkage allocated to producer milk and other source milk should be computed on a pro rata basis

according to the percentage of skim milk and butterfat received from each source. This procedure will treat in the proration shrinkage arising on milk received from producers and other sources in the same manner.

(iii) The order should be amended to provide that milk, skim milk, and cream disposed of by a handler to a nonhandler shall be Class I milk, unless the nonhandler's plant is located within 110 miles from St. Louis or within the counties of Phelps, Dent, Pulaski, Texas, Howell, Laclede, Wright, Dallas, Webster, Polk, Greene, Christian, or Lawrence in the State of Missouri. If such plant is within these boundaries the handler should be permitted to claim another class on the basis of a utilization mutually indicated in writing to the market administrator by the handler and nonhandler, provided the nonhandler maintains records showing that an equivalent amount of milk, skim milk, and cream was actually utilized in the nonhandler's plant in the class indicated in the signed statement.

The present order provides that all milk or skim milk moved in fluid form to plants more than 110 miles from St. Louis shall be Class I milk. Handlers proposed that such 110 mile limit be extended. Both producers and handlers supported the addition of the above-named counties to the present limits and submitted testimony which indicates that sufficient manufacturing facilities are available within this area to handle any seasonal surplus of milk, skim milk, or cream. The expansion of the surplus disposal area to include such counties is necessary to provide for the economical utilization of surplus milk in the expanding supply area for the St. Louis market and this expansion in the surplus disposal area should not create administrative difficulties in verifying the utilization of skim milk and butterfat.

(iv) Skim milk and butterfat transferred to a producer-handler in the form of milk, skim milk, or cream should be classified as Class I milk. Producer-handlers ordinarily engage in only fluid operations; hence any milk, skim milk, or cream which they might purchase from a handler would be for Class I use. Under such circumstances it is not necessary to provide for the classification of such a transfer in a lower class.

(v) The transfer provisions should provide that skim milk and butterfat disposed of in the form of milk, skim milk, or cream, by transfer or transfer of title, from a country plant of a handler to a country plant or a city plant of another handler (except a producer-handler) may be classified on the basis of a class mutually indicated in writing to the market administrator by both handlers: *Provided*, That such agreed classification shall not result in a greater proportion of such milk, skim milk, or cream being classified as Class I milk than the proportion of milk received from producers by such transferee-handler which is classified as Class I milk.

There are several independently owned country plants supplying milk to city plants in the St. Louis, Missouri, marketing area. The operators of these country plants are handlers under the

terms of the present order. The present transfer provisions relating to the classification of milk received by a handler from such country plants provide that such milk may be classified on the basis of an agreed class mutually indicated in writing to the market administrator by both handlers. Under these provisions St. Louis handlers who receive milk direct from producers and purchase milk from independently owned country plants have classified purchases of milk from such country plants as Class I milk when substantial quantities of milk received direct from producers by such handlers were classified as Class II milk. This practice has resulted in nearby producers receiving a lesser f. o. b. St. Louis price than producers delivering to these country plants. Other handlers, who operate city plants, also own and operate country plants, and are required by the order to classify all of the producer milk in both plants on a pro rata basis which results in producers delivering to the city plant receiving the same f. o. b. St. Louis price as producers delivering to the country plant. The proposed change will eliminate these inequities by limiting the classification as Class I milk, which the independently owned country plant may obtain, to the same proportion as applies to producer milk delivered directly to a city plant. Moreover, by allowing some flexibility in the allocation of milk between country and city plants an opportunity is afforded to country plants to sell Class II milk when a market for Class I milk is not available, and still share in the Class I market.

(vi) The proposal to prorate milk accounted for in excess of receipts between the receipts of producer milk and receipts of other source milk should not be adopted. The reasons for over-accounting are errors in weighing and testing receipts of milk and errors in recording sales of milk and milk products. Both of these are under the control of the handler. In order to protect the classification of producer milk it is necessary to charge handlers the price applicable to the class to which the over-accounted-for milk is allocated.

(vii) The provisions of the order relating to the allocation of milk, which is classified in the two classes, to receipts of producer milk and other source milk should be amended to provide for the subtraction of receipts of other source milk prior to the subtraction of receipts from other handlers. The present order permits a handler to subtract receipts from other handlers prior to the subtraction of other source milk receipts from the lowest-priced available class. Thus, a handler could purchase producer milk as Class II milk from another handler and at the same time buy other source milk as Class I milk. In order to protect the classification of producer milk, it is necessary to require that a handler subtract his receipts of other source milk from the lowest-priced available class before determining the allocated use of receipts from other handlers.

The proposal to amend the order to provide that the pounds of ungraded milk received from sources other than

producers or handlers and disposed of as fluid milk in the marketing area be subtracted from the pounds of Class I milk should not be adopted. The order presently provides that sales of such milk outside of the marketing area be subtracted from Class I milk. Handlers argued that in the event sufficient graded milk were not available the Health Department might permit the sale of ungraded fluid milk. The order would not create any hardship upon the handler in this instance since he would be permitted to deduct such sales from Class I milk after all of his receipts of milk from producers were allocated to Class I milk.

The proposal to prorate the receipts of approved milk from a handler under another Federal order between Class I and Class II milk should not be adopted. The order permits a handler to allocate 5 percent of his receipts of milk from producers to sales of Class II milk prior to subtracting receipts of such approved milk from the lowest-priced available class. The 5 percent of producer milk permitted to be allocated as Class II milk is included to cover the daily fluctuations in receipts and sales of milk. Producers proposed to eliminate the 5 percent provision. It is concluded that the 5 percent provision is sufficient, and needed at this time, to cover such daily fluctuations. This should permit a handler to classify as Class I milk purchases of approved milk from sources other than producers or handlers if such supplies are needed for Class I uses.

The present allocation provisions provide for the subtraction from the various classes of the pounds of milk, skim milk, and cream, received from sources other than producers on a volume basis. Thus, purchases of skim milk from sources other than producers may be eliminated from a class consisting principally of cream, purchases of cream from such sources may be eliminated from a class consisting principally of skim milk, etc. To eliminate this inconsistency, it is concluded that skim milk (whole milk less the pounds of butterfat contained therein) and butterfat should be classified and allocated separately. This is also necessary in order to establish a butterfat differential to handlers in accordance with the use made of butterfat in milk received from producers.

(viii) The order should be amended to clarify the responsibility of a handler in establishing the classification of all skim milk and butterfat received. The handler who first receives the skim milk and butterfat is responsible for reporting the utilization and for making full payment for skim milk and butterfat received from producers. He must, therefore, maintain the records necessary to prove the utilization reported to the market administrator.

The order should be clarified with respect to the reclassification of skim milk and butterfat which has been classified in one class but is later used or reused by such handler or by another handler in another class. In order to compute a current delivery period price, it is necessary to place inventories in some class temporarily. In the case of frozen cream

condensed skim milk, and other condensed milk products, such inventory may not be ultimately used for several months. Obviously, if such milk is later used in another class, appropriate adjustment in the price to the handler should be made. Such a principle should also apply to milk and milk products transferred to another handler, if he disposes of them in a class other than the class in which they were temporarily placed. This principle requires that the market administrator reclassify milk and milk products whenever there is insufficient milk in the class in which it was originally classified to contain the use claimed by the handler.

(4) *Class prices.* (i) The Class I price differential to be added to the basic formula price in determining the price of Class I milk should be revised by the adoption of a "supply-demand" adjustment based on the relationship of the total market receipts of milk from producers to the total market sales of Class I milk during the 12 preceding delivery periods.

Under the terms of the present order, as amended, the price of Class I milk is determined by adding the following amounts per hundredweight to the basic formula price: \$1.35 for the delivery periods of July through December; \$1.10 for the delivery periods of January through March; and \$0.90 for the delivery periods of April through June. Proposals were submitted by certain producers for consideration at the public hearings held on July 7-9, 1948, and September 20-24 and 27-29, 1948, to amend the price of Class I milk, by adding to the above differentials 46 cents per hundredweight for the months of July through December and 23 cents per hundredweight for the months of January through March, if during the 12 months immediately preceding the delivery period the total amount of milk delivered by producers was less than 130 percent of the total Class I milk disposed of by all handlers. Upon the basis of the evidence received at the hearing held on July 7-9, 1948, the order, as amended, was further amended to provide for an increase in the Class I price differential of 46 cents per hundredweight for the period November 18 through December 31, 1948, and 23 cents per hundredweight for the period January 1 through March 31, 1949.

In the decision issued November 9, 1948, on the July 7-9 hearing, it was concluded that the producer proposal should not be adopted without a review of the related classification provisions of the order. It was further concluded, however, that the price action made effective November 18 should be effectuated on a temporary basis in view of the economic conditions, set forth in the decision, which affect the market supply of and demand for milk in the marketing area. The economic conditions as found on the record of the September 1948 hearing are essentially the same as those found on the record of the July 1948 hearing with a few exceptions. The production of milk per farm for the month of August 1948 was 299 pounds per day as compared with 261 pounds per day produced in August 1947. With

this exception, the production per farm for each month since July 1947 has shown a decrease as compared with the same month of the previous year. Handlers contended that the price of feeds used in the production of milk had declined substantially during the months of July and August 1948 resulting in a more favorable feed-milk ratio. While this is true it must be recognized that this is offset somewhat by higher farm labor costs. Furthermore, increases in the price of hogs and beef cattle have made milk production less favorable relative to these farm enterprises.

All of the testimony at the hearing from producers, handlers, and consumers emphasized the need for increasing the production of Grade A milk in the St. Louis milkshed to supply all of the local demand for products which are required by the health authorities to be made from approved milk. In this connection, producers argued that the Class I price differential was not great enough to encourage dairy farmers in the supply area to deliver their milk to the St. Louis market rather than to manufacturing plants in the milkshed. In order to provide for more rapid changes in the Class I price differential which would reflect changes in the supply of and demand for milk in the market, they suggested that such differential be increased or decreased as the receipts of milk from producers varied in relation to the sales of Class I milk by all handlers.

As pointed out in the decision issued on November 9, 1948, substantial quantities of approved milk, skim milk, and cream have been purchased by handlers from the Chicago market for the past several years to supplement local production. Due to the seasonal variation in the production of milk by St. Louis producers, these purchases have been considerably greater during the fall and winter months than during the spring season. Both producers and handlers recognized the need of a more level production of milk locally and suggested that any change in the pricing provisions should reflect greater incentive for fall and winter production.

An analysis of the production and sales figures for the period 1941-48 indicates that an annual production of milk in the St. Louis market approximately 15 percent greater than the annual sales of Class I milk (fluid milk, skim milk, buttermilk, milk drinks, and cream) was needed during such years in order to supply the market with sufficient producer milk for Class I uses during the short production months. During the past 12 months the total receipts of producer milk have been about equal to the sales of Class I milk for this period.

In view of the uncertainty with respect to the receipts of milk and the demand for Class I milk in the market in the future, it is concluded that if during the 12 months immediately preceding the delivery periods of December, March, and June, respectively, the total volume of milk received from producers by all handlers was (a) less than 115 percent of the total Class I milk disposed of by all handlers during such 12 month period, the following amounts per hundredweight should be added to the price for

Class I milk for each percentage point that such receipts were below 115 percent: 2 cents for the delivery periods of July through December and 1 cent for the delivery periods of January through March; or (b) more than 115 percent of the total Class I milk disposed of by all handlers during such 12 month period, 2 cents per hundredweight should be deducted from the price for Class I milk for the delivery periods of January through March, April through June, and July through December, respectively, for each percentage point that such receipts were above 115 percent of the total Class I milk disposed of by all handlers during such 12 month period. Thus, if during the 12 months of June through May the receipts of milk from producers was less than 115 percent of the Class I sales, there would be added to the Class I price for the following months of July through December 2 cents per hundredweight for each percentage point that such receipts were less than 115 percent of such sales. If during the 12 months of December through November such receipts were less than 115 percent of such sales, there would be added to the Class I price for the following months of January through March 1 cent per hundredweight for each percentage point that such receipts were less than 115 percent of such sales. However, under these conditions, no adjustment would be made in the price for Class I milk for the months of April through June. Downward adjustments in the Class I price would be made each period of January through March, April through June, and July through December when the receipts of milk from producers for the 12 months prior to December, March, and June, respectively, were more than 115 percent of the sales of Class I milk during such 12 month period.

On the basis of the relationship between receipts of milk from producers and Class I sales at the time of the hearing, differentials over basic prices for Class I milk of approximately \$1.65 per hundredweight for the delivery periods July through December, \$1.25 for the periods January through March, and \$0.90 for the other months of the year would have been necessary to assure an adequate supply of milk for this market. Differentials at this level represent increases from those presently provided in the order of 30 cents per hundredweight for the periods July through December, 15 cents per hundredweight for the periods January through March, and no change for the other months of the year. The differentials of \$1.65, \$1.25, and \$0.90 are somewhat less, however, than those provided for by the temporary price action of November 18, 1948. These increases from present levels are necessary for the reasons set forth as the basis for the temporary price action of November 18, 1948, and for the additional reasons set forth above. It is not necessary to provide differentials as high as those provided for in the temporary price action of November 18, 1948, because of somewhat reduced prices for feeds and somewhat increased supplies of milk. Moreover, changes in the classification system provided for herein will

increase the quantity of milk in Class I and hence, the Class I price may be reduced somewhat for this reason. Any change in supply and sales conditions in the market will be reflected in the adjustment in the Class I price differential through the medium of the supply-demand adjustment. To the extent that the supply of milk has increased relative to sales this condition will result in lower Class I prices.

(ii) The proposal to establish a Class I price differential of \$1.10 per hundredweight for the months of July and December in lieu of the present differential of \$1.35 per hundredweight should not be adopted. Substantial quantities of milk, skim milk, and cream have been imported during these months for the past several years. Furthermore, these are months in which producers are normally required to dry feed heavily.

(iii) The price for Class II milk should be the basic formula price as set forth in the present order, i. e., the average of the prices paid by 23 manufacturing plants or a formula price based upon the open market price of 92-score butter and non-fat dry milk solids in the Chicago market, whichever is the higher. The Class II milk products are those which are not required to be made from milk meeting the health requirements in the marketing area. Since sales of these products have to compete with products made from ungraded milk, it is appropriate at this time to price such milk on the basis of a competitive price for milk purchased for manufacturing purposes.

(5) The proposal to revise the basic formula price used in determining the price for Class I milk and Class II milk by providing for the determination of such class prices for milk received during the delivery period on the basis of the prices paid for milk for manufacturing uses during the preceding delivery period rather than the current delivery period should not be adopted. Such a plan would be of some benefit in giving producers and handlers more advance notice of class prices, but would distort the seasonal pattern of such prices. In view of the need for a more level production it is concluded that the adoption of such plan is not appropriate at this time.

(6) The class prices which handlers are required to pay for milk of 3.5 percent butterfat content should be adjusted in accordance with the classification of butterfat in milk received from producers. This is necessary in order to conform with the principle of classification and allocation of skim milk and butterfat, separately. The Class I price to handlers should be adjusted by a butterfat differential which is equivalent to the average of daily wholesale prices per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, plus 35 percent; and the Class II price to handlers should be adjusted by a butterfat differential which is equivalent to the average price of such butter plus 20 percent. Under the present order, as amended, class prices are determined on the basis of milk of 3.5 percent butterfat content with a butterfat differential used in adjusting the price paid to producers. Such differential is the

average daily wholesale price per pound of 92-score butter in the Chicago market plus 20 percent. The annual average butterfat test of milk received is approximately 3.8 percent.

The recommended decision proposed a Class I butterfat differential equivalent to the average price of 92-score butter plus 40 percent. Handlers excepted, contending that such a differential resulted in an unreasonable price for butterfat utilized in Class I. A further review of the pertinent data contained in the hearing record indicates that the Class I differential should be equivalent to the reported average daily wholesale prices of 92-score butter plus 35 percent.

Under this provision the value of butterfat in Class I milk will bear a relationship to the cost of cream purchased from the Chicago market. The resulting price of Class I butterfat, however, will be somewhat less than the price of butterfat in such cream purchased. The value of butterfat in Class II milk is the same as the value set forth in the butter-non-fat dry milk solids price in the basic formula price.

(7) An adjustment should be made in the location differential to handlers for milk purchased from producers at plants located outside of the marketing area. Under the present order, as amended, a handler is allowed to deduct a location differential on all milk which he receives from producers at a plant located outside the marketing area. Such differential applies to Class II milk as well as Class I milk. This has resulted in Class II prices to producers f. o. b. country plants which are lower than prices paid by manufacturing plants in such locality. Furthermore, such differentials are allowed even though the milk does not move to the marketing area. It is concluded that such location differentials should apply on only that milk which the handler is required to pay producers the Class I price. It is not appropriate to apply these location differentials to Class II milk since such milk, as defined herein, may be disposed of in manufactured products in the supply area.

(8) The proposal that any unpaid obligations of a handler or of the market administrator, with respect to payments to producers, expense of administration, and deductions for marketing services, should bear interest at the rate of $\frac{1}{2}$ of 1 percent per month, beginning on the first day of the calendar month next following the due date of such obligation, should not be adopted. The record does not show a need for such a provision at this time. Furthermore, the record is not clear as to the date any such obligations would become due in the event of a disputed claim.

(9) The proposal to establish a market-wide pool in lieu of the present individual-handler pool should not be adopted at this time.

There has been and continues to be less than an adequate supply of producer milk to satisfy the needs of the St. Louis market for all ordinance product uses during all seasons of the year. Proponents of the market-wide pool pointed out that it has been difficult in some measure to increase sources of supply because handlers who desire to furnish cream, skim

milk, skim milk drinks, and other ordinance products to their customers, have lower uniform prices than handlers who do not engage in this trade. This condition is the result of classifying as Class II milk all of the ordinance products except whole fluid milk. It is the position of the proponents of the market-wide pool that such a pool would make it possible for them to expand their sources of producer milk in order to furnish the needs of the market without, at the same time, reducing their own individual prices.

It is true that the adoption of a market-wide pool would make it possible for certain handlers to procure additional supplies of milk without reducing the prices they pay to producers relative to the price paid by other handlers. If ordinance products were to be continued in Class II milk it might be desirable to adopt a market-wide pool because of this condition but, as pointed out above, it is concluded that all ordinance products should be placed in Class I milk. This change in the order will lessen the difficulties which the proponents proposed to deal with through the adoption of a market-wide pool.

In addition to the fact that the above-mentioned difficulties will be ameliorated by the change in classification, the continuation of the individual-handler pool at this time appears to have certain advantages. In a period of shortage such as has characterized this market, an individual-handler pool is more likely than a market-wide pool to distribute any new supply of producer milk among all handlers in relation to their needs for Class I milk. Under the individual-handler pool a handler who has an excess of Class I milk merely depresses his price to producers by acquiring additional supplies. This tends to prevent such handlers from acquiring additional inspected milk when other handlers need it for Class I purposes. On the other hand, handlers who need an additional supply for Class I purposes can increase their purchases of producer milk without, at the same time, reducing their uniform price to producers and, because of the changes in classification, handlers can procure all of the producer milk needed for local consumption in ordinance products without depressing the price to producers. Because of this characteristic of the individual-handler pool, it appears that no change should be made in the pooling plan while this market remains in a short supply condition.

(10) The pro rata assessment against each handler should be increased from 2 cents to 2.5 cents per hundredweight on all producer milk received by such handler in order to provide the funds necessary for the maintenance and functioning of the market administrator in the administration of the order. The present rate of 2 cents per hundredweight on all producer milk has been insufficient to cover current expenses incurred by the market administrator. The market administrator has been able to finance the administration of the order currently through use of reserve funds. However, this reserve has now been reduced to the level which should be maintained to meet contingencies. Both producers and han-

dlers recognize that the market administrator should have the necessary funds to enable him to administer properly the terms of the order. The record indicates that an assessment rate of 2.5 cents per hundredweight on the present volume of producer milk should provide the funds necessary for the maintenance and functioning of the market administrator in the administration of the order. In the event the volume of producer milk increases or such expenses of the market administrator decrease to the extent that a lesser rate would provide such necessary funds, provision is made which would enable the Secretary to reduce the rate accordingly.

(11) The deductions to be made by handlers in making payments to producers, who are not members of a qualified cooperative pursuant to § 903.10 (b), should be increased from 4 cents to 5 cents per hundredweight in order to provide sufficient funds to the market administrator for the performance of marketing services to such producers. The present 4 cent deduction is insufficient to defray current expenses incurred in performing marketing services to such nonmembers. The increase of 1 cent per hundredweight in these deductions will provide the market administrator with approximately \$1,300 additional funds annually which are needed to verify weights, samples, and tests of milk received from such producers and to provide them with market information. In the event the volume of milk received from these producers increases or the cost of performing these services decreases to the extent that a lesser deduction would prove to be sufficient, provision is made which would enable the Secretary to reduce the rate of deductions accordingly.

(12) The provisions of the order, as amended, should be revised to provide that each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall make available to the market administrator such records, as well as all facilities, operations, and equipment as the market administrator deems necessary to (i) verify the receipts and utilization of skim milk and butterfat, (ii) weight, sample, and test for butterfat and other content all milk and milk products handled, and (iii) verify payments to producers. It is appropriate that the language of the order should be revised to make it clear to all interested parties that adequate books and records must be maintained by handlers to establish proof to the market administrator of the proper classification of milk and milk products. It is also appropriate that such books and records be made available to the market administrator upon request in order that he may verify compliance with all of the terms of the order.

Orders issued pursuant to the act require the handler to prove a utilization other than Class I, and it has been the practice to require adequate books and records as a means of verifying handler compliance. Such principles are necessary for the proper functioning of the order. Furthermore, it is essential that the handler make available to the market administrator, when the occasion

arises, such facilities and equipment as will enable the market administrator to make examination of the complete operations of the handler. The market administrator is entrusted with the power and duty of administering the terms of the order which affects the incomes of thousands of producers as well as guaranteeing the industry that all handlers pay equivalent prices for milk used in each class. Thus, it is essential that he have the right and be permitted to make physical checks of individual plant operations in establishing the compliance of all handlers.

The order, as amended, should also be revised to clarify its status in the event any provision thereof, or its application to any other person or circumstance, is held invalid. In this event, the application of such provision, and of the remaining provisions thereof, to other persons or circumstances should not be affected thereby. This is necessary in the proper administration of the order and is commonly used in other orders issued pursuant to the act.

(13) The various provisions of the order, as amended, should be rewritten to conform with the changes contained herein. In view of the numerous changes, it is believed that it would be more convenient to all interested parties to incorporate those provisions of the order which are not affected by the changes. Thus, a complete order amending the order, as amended, is made a part hereof in lieu of various amendments to the order, as amended.

In conformity with the establishment of the skim milk and butterfat method of classifying and accounting for milk, it is concluded that the date for filing reports by handlers should be changed from the 5th to the 7th day after the end of each delivery period.

(14) *General.* (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in the said tentatively approved marketing agreement upon which hearings have been held; and

(c) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8e of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for such milk, and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

Marketing agreement and order. Annexed hereto and made a part hereof are

two documents entitled, respectively, "Marketing agreement regulating the handling of milk in the St. Louis, Missouri, marketing area" and "Order regulating the handling of milk in the St. Louis, Missouri, marketing area," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the attached order, which will be published with the decision.

This decision filed at Washington, D. C., this 22d day of July 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

Order,¹ Amending the Order, as Amended, Regulating the Handling of Milk in the St. Louis, Missouri, Marketing Area

§ 903.0 Findings and determinations. The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations made in connection with the issuance of this order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing the formulation of marketing agreements and orders (7 CFR, 900.1 et seq.), a public hearing was held September 20-24 and September 27-29, 1948, upon a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the St. Louis, Missouri, milk marketing area. The recommended decision (14 F. R. 2858) was made by the Assistant Administrator of the Production and Marketing Administration on June 1, 1949. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders have been met.

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8e of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity, specified in a marketing agreement upon which a hearing has been held.

(b) Additional findings. (1) It is hereby found that a pro rata assessment on handlers at a rate not to exceed 2.5 cents per hundredweight with respect to all receipts by the handler, during each delivery period, of milk from producers (including such handler's own production) will provide the funds necessary for the maintenance and functions of the market administrator in the administration of this order and such assessment is approved.

Order relative to handling. It is hereby ordered, that on and after the effective date hereof, the handling of milk in the St. Louis, Missouri, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended to read as follows:

§ 903.1 Definitions. The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

(b) "Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties, pursuant to the act, of the Secretary of Agriculture.

(c) "Department of Agriculture" means the United States Department of Agriculture or any other Federal Agency as may be authorized by act of Congress or by Executive Order to perform the price-reporting functions of the United States Department of Agriculture.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "St. Louis, Missouri, Marketing Area," hereinafter called the "marketing area," means the territory within the corporate limits of the City of St. Louis, Kirkwood, and Valley Park, Missouri; the territory within St. Ferdinand, Normandy, Clayton, Jefferson, Lemay, and Gravois Townships in St. Louis County, Missouri; and the territory within Scott Field Military Reservation, and East St. Louis, Centerville, Canteen, and Stites Townships in St. Clair County, Illinois,

(f) "Delivery period" means a calendar month, or the portion thereof during which this order or any amendment thereto is in effect.

(g) "Producer" means any person, irrespective of whether such person is also a handler, who produces milk, under a dairy farm permit or rating issued by the appropriate health authority in the marketing area for the production of Grade A or Grade B raw milk, which is received at a city plant or at a country plant. As used herein, such "dairy farm permit or rating" means one issued by any of the health authorities duly authorized to administer regulations governing the quality of milk disposed of in the marketing area.

(h) "City plant" means a plant where fluid milk is received from producers or from a country plant, and from which packaged milk, skim milk, or cream is disposed of as Class I milk in the marketing area to wholesale or retail outlets, including plant stores.

(i) "Country plant" means a plant at which milk is received from producers, and which is approved by the appropriate health authority in the marketing area to furnish milk to a city plant.

(j) "Handler" means a person who operates a city plant or a country plant.

(k) "Producer-handler" means any person who is a producer and who processes milk from his own farm production distributing all or a portion of such milk within the marketing area as Class I milk but who receives no milk from other producers.

(l) "Nonhandler" means any person who is not a handler but who distributes fluid milk on retail or wholesale routes, or engages in the manufacture of milk products.

(m) "Market administrator" means the person designated pursuant to § 903.2 as the agency for the administration hereof.

(n) "Other source milk" means all skim milk and butterfat transferred in any form by a producer-handler to a handler, and all skim milk and butterfat received in any form from a source other than a producer, a city or a country plant, except any Class II nonfluid milk product which is received and disposed of in the same form.

§ 903.2 Market Administrator—(a) Designation. The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) Powers. The market administrator shall have the following powers with respect to this order:

(1) To administer its terms and provisions;

(2) To receive, investigate, and report to the Secretary complaints of violations;

(3) To make rules and regulations to effectuate its terms and provisions; and

(4) To recommend amendments to the Secretary.

(c) Duties. The market administrator shall perform all duties necessary to administer the terms and provisions of this

order, including, but not limited to, the following:

(1) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

(3) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(4) Pay, out of the funds provided by § 903.9: (i) The cost of his bond and of the bonds of his employees, (ii) his own compensation, and (iii) all other expenses, except those incurred under § 903.10, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(5) Keep such books and records as will clearly reflect the transactions provided for herein and submit such books and records to examination by the Secretary as requested;

(6) Furnish such information and such verified reports as the Secretary may request;

(7) Prepare and disseminate, for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation hereof as does not reveal confidential information;

(8) Publicly disclose to handlers and to producers, unless otherwise directed by the Secretary, the name of any handler who, within 15 days after the date upon which he is required to perform such acts, has not made (i) reports pursuant to § 903.3 (a), or (ii) payments pursuant to § 903.8;

(9) Verify all reports and payment of each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(10) Publicly announce the prices and butterfat differentials determined for each delivery period as follows: (i) On or before the 6th day after the end of such delivery period, the prices and butterfat differential for each class of milk computed pursuant to § 903.5; and (ii) on or before the 10th day after the end of such delivery period, the uniform price computed pursuant to § 903.7 (b) for each handler with the butterfat differential applicable pursuant to § 903.8, in the payment for milk to producers and any adjustments made pursuant to § 903.7 (b) (3).

§ 903.3 *Reports, records, and facilities*—(a) *Delivery period reports of receipts and utilization.* On or before the 7th day after the end of each delivery period each handler, except a producer-handler, shall report to the market ad-

ministrator in the detail and on forms prescribed by the market administrator:

(1) The quantities of skim milk and butterfat contained in all receipts at each of his city plants and country plants within such delivery period of (i) milk from producers (including his own farm production), (ii) milk, skim milk, cream, and milk products from other handlers, and (iii) other source milk;

(2) The utilization of all skim milk and butterfat required to be reported pursuant to subparagraph (1) of this paragraph, including a separate statement of the disposition of Class I milk outside the marketing area;

(3) The name and address of each producer from whom milk is received for the first time, and the date on which such milk was first received; and

(4) The name and address of each producer who discontinues deliveries of milk, and the date on which milk was last received from such producer.

(b) *Reports of payments to producers.* On or before the 20th day after the end of each delivery period, each handler shall report to the market administrator his producer pay roll for such delivery period which shall show for each producer (1) the total pounds of milk received from such producer with the average butterfat test thereof, (2) the net amount of the payment made to such producer together with the price, deductions, and charges involved, and (3) the amount and nature of any payments made pursuant to § 903.8 (d).

(c) *Reports of transportation rates.* On or before the 10th day after the request of the market administrator, each handler shall submit a schedule of transportation rates which are charged and paid for the transportation of milk from the farm of each producer to such handler's plant or plants. Any changes made in this schedule of transportation rates and the effective dates thereof shall be reported to the market administrator within 10 days.

(d) *Reports of producer-handlers.* Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request and shall permit the market administrator to verify such reports.

(e) *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available for such examination of the market administrator or his representative all records, facilities, operations, and equipment as the market administrator deems necessary to (1) verify the receipts and utilization of all skim milk and butterfat and, in case of errors or omissions, ascertain the correct figures; (2) weigh, sample, and test for butterfat and other content all milk and milk products handled; and (3) verify payments to producers.

(f) *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month

to which such books and records pertain, except that all such books and records pertaining to transactions before August 1, 1946, shall be retained until October 1, 1949: *Provided*, That if, within such three-year period or before October 1, 1949, whichever is applicable, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 903.4 *Classification of milk*—(a) *Basis of classification.* All skim milk and butterfat received by a handler at his country plant(s) and city plant(s) in (1) milk from producers (including milk of his own production), (2) milk, skim milk, cream, and other milk products from other handlers, and (3) other source milk, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization.* Subject to the conditions set forth in paragraphs (c), (d), (e), and (f) of this section, the classes of utilization shall be as follows:

(1) Class I milk shall be all skim milk and butterfat (i) disposed of in fluid form as milk, skim milk, buttermilk, milk drinks (whether plain or flavored), cream (fresh, frozen, and sour), and any milk product, except cottage cheese, ice cream, and ice cream mix, which is required by the appropriate health authority in the marketing area to be made from Grade A or Grade B raw milk, and (ii) not specifically accounted for as Class II milk.

(2) Class II milk shall be all skim milk and butterfat accounted for (i) as having been used or disposed of in any product other than those specified in Class I milk, (ii) as actual plant shrinkage of skim milk and butterfat in milk received from producers, but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively, and (iii) as actual plant shrinkage of skim milk and butterfat in other source milk: *Provided*, That if milk from producers and other source milk are both received, during the same delivery period, in a country plant or a city plant the shrinkage of skim milk and butterfat, respectively, allocated to producer milk and to other source milk shall be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources to their total.

(c) *Responsibility of handlers and reclassification of milk.* (1) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat proves to the market administrator that such skim milk and butterfat should be classified in another class.

(2) Any skim milk or butterfat classified in one class shall be reclassified if used or reused by such handler or by another handler (except a producer-handler) in another class.

(d) *Transfers.* (1) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream, by transfer or diversion, from a city plant of a handler to any plant of another handler, except a producer-handler, shall be classified as Class I milk, unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the delivery period within which such transaction occurred, in which case such skim milk and butterfat shall be classified according to such mutual agreement: *Provided*, That skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to paragraph (f) of this section, and any excess of such skim milk or butterfat, respectively, shall be assigned to Class I milk.

(2) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream, by transfer or transfer of title, from a country plant of a handler to a country plant or a city plant of another handler, except a producer-handler, shall be classified as Class I milk, unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the delivery period within which such transaction occurred, in which case such skim milk and butterfat shall be classified according to such mutual agreement: *Provided*, That the amount of skim milk or butterfat classified as Class I milk pursuant to this subparagraph shall be limited to the amount computed pursuant to paragraph (f) (1) (vii) of this section.

(3) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream, by transfer or diversion, from a country plant or a city plant of a handler to a city plant of a producer-handler shall be classified as Class I milk.

(4) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream, by transfer or diversion, from a country plant or a city plant of a handler to any plant other than a city plant or a country plant of a handler or to a nonhandler shall be classified as Class I milk unless (i) the transferee-plant is located within 110 air-line miles from the City Hall in St. Louis, Missouri, or in the counties of Phelps, Dent, Pulaski, Texas, Howell, Laclede, Wright, Dallas, Webster, Polk, Greene, Christian, or Lawrence in the State of Missouri, and the handler claims another class on the basis of a utilization mutually indicated in writing to the market administrator by both the handler and the operator of the transferee-plant on or before the 7th day after the end of the delivery period within which such transaction occurred, (ii) the operator of the transferee-plant maintains books and records, showing

the utilization of all skim milk and butterfat received at such plant, which are made available if requested by the market administrator for the purpose of verification, and (iii) not less than an equivalent amount of skim milk and butterfat was actually utilized in such plant in the use indicated in such statement; in which case such skim milk and butterfat shall be classified according to such mutual agreement: *Provided*, That if upon inspection of the records of such plant it is found that an equivalent amount of skim milk and butterfat was not actually used in such indicated use the remaining pounds shall be classified as Class I milk.

(5) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream, from a plant of a handler to retail establishments which dispose of milk, skim milk, or cream for both fluid and other uses shall be classified as Class I milk: *Provided*, That skim milk and butterfat contained in milk, skim milk, or cream so disposed of in bulk to retail establishments which, under the applicable health regulations, are permitted to receive milk, skim milk, or cream other than of Grade A quality for nonfluid purposes shall be classified as Class II milk if used or disposed of by such establishment in other than fluid form, provided that the market administrator is allowed to verify such use or disposition.

(e) *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler.

(f) *Allocation of skim milk and butterfat classified.* (1) The pounds of skim milk remaining in each class after making the following computations for each handler for each delivery period shall be the pounds of skim milk in such class allocated to producer milk received by such handler during such delivery period:

(i) Subtract from the total pounds of skim milk in Class II milk the plant shrinkage of skim milk in milk received from producers, computed pursuant to paragraph (b) (2) (ii) of this section;

(ii) Subtract from the pounds of skim milk in Class I milk the pounds of skim milk in ungraded milk received as other source milk and disposed of as Class I milk outside the marketing area;

(iii) Subtract from the pounds of skim milk remaining in Class II milk an amount of skim milk so utilized, pursuant to paragraph (b) (2) (i) of this section, but not to exceed 5 percent of the total receipts of skim milk in milk received from producers: *Provided*, That a smaller percentage shall be applied under this subdivision if designated by the handler on his report made pursuant to § 903.3 (a) (1);

(iv) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk (exclusive of the pounds of skim milk subtracted pursuant to subdivision (ii)

of this subparagraph): *Provided*, That if the pounds of skim milk to be subtracted from Class II milk is greater than the pounds of skim milk remaining in such class, the balance shall be subtracted from the pounds of skim milk remaining in Class I milk;

(v) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subdivision (iii) of this subparagraph;

(vi) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in milk, skim milk, cream, and other milk products received from a city plant of another handler and assigned to such class: *Provided*, That if the pounds of skim milk to be subtracted from Class II milk is greater than the pounds of skim milk remaining in such class, the balance shall be subtracted from the pounds of skim milk remaining in Class I milk;

(vii) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in milk, skim milk, cream, and other milk products received from a country plant of another handler and assigned to such class: *Provided*, That the pounds of skim milk to be subtracted from Class I milk shall not exceed its pro rata share of the volumes of skim milk allocated to Class I milk and Class II milk after the subtraction of receipts of other source milk and receipts from city plants of another handler;

(viii) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subdivision (i) of this subparagraph; or if the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in the various classes, in series beginning with the lowest-priced class.

(2) Determine the pounds of butterfat in each class to be allocated to milk received from producers in the same manner prescribed for skim milk in subparagraph (1) of this paragraph.

(g) *Determination of producer milk in each class.* Add the pounds of skim milk and the pounds of butterfat allocated to milk received from producers in each class, respectively, as computed pursuant to subparagraphs (1) and (2) of paragraph (f) of this section, and determine the percentage of butterfat in each class.

§ 903.5 *Minimum prices*—(a) *Basic formula price.* The basic formula price per hundredweight to be used in determining the class prices, set forth in paragraph (b) of this section, shall be the higher of the prices per hundredweight for milk of 3.5 percent butterfat content computed pursuant to subparagraphs (1) or (2) of this paragraph.

(1) Determine the arithmetic average of the basic, or field, prices paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Concern and Location

Carnation Co., Ava, Mo.
 Carnation Co., Seymour, Mo.
 Pet Milk Co., Greenville, Ill.
 Litchfield Creamery Co., Litchfield, Ill.
 Indiana Condensed Milk Co., Bunker Hill, Ill.
 Borden Co., Mt. Pleasant, Mich.
 Carnation Co., Sparta, Mich.
 Pet Milk Co., Hudson, Mich.
 Pet Milk Co., Wayland, Mich.
 Pet Milk Co., Coopersville, Mich.
 Borden Co., Greenville, Wis.
 Borden Co., Black Creek, Wis.
 Borden Co., Orfordville, Wis.
 Carnation Co., Chilton, Wis.
 Carnation Co., Berlin, Wis.
 Carnation Co., Richland Center, Wis.
 Carnation Co., Oconomowoc, Wis.
 Carnation Co., Jefferson, Wis.
 Pet Milk Co., Ne-7 Giarus, Wis.
 Pet Milk Co., Belleville, Wis.
 Borden Co., New London, Wis.
 White House Milk Co., Manitowoc, Wis.
 White House Milk Co., West Bend, Wis.

(2) The price per hundredweight computed as follows: Multiply by 3.5 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, add 20 percent thereof, and add or subtract, as the case may be, to such sum $3\frac{1}{2}$ cents for each full $\frac{1}{2}$ cent that the average of the carlot prices per pound of nonfat dry milk solids for human consumption, f. o. b. Chicago area manufacturing plants, as reported by the Department of Agriculture during the delivery period (including in such average the quotations published for any fractional part of the previous delivery period which were not published and available for the price determination of such nonfat dry milk solids for the previous delivery period), is above $5\frac{1}{2}$ cents: *Provided*, That if such f. o. b. manufacturing plant prices of nonfat dry milk solids are not reported there shall be used for the purpose of such computation the average of the carlot prices of nonfat dry milk solids for human consumption, delivered at Chicago, as reported by the Department of Agriculture during the delivery period; and in the latter event $7\frac{1}{2}$ cents shall be used in lieu of the " $5\frac{1}{2}$ cents."

(b) *Class prices.* Subject to the provisions of paragraphs (c) and (d) of this section, each handler shall pay producers, at the time and in the manner set forth in § 903.8, not less than the following prices per hundredweight of milk:

(1) *Class I milk.* The price for Class I milk shall be the basic formula price plus the following amounts per hundredweight: \$1.35 for the delivery periods of July through December; \$1.10 for the delivery periods of January through March; and 90 cents for the delivery periods of April through June: *Provided*, That if during the 12 months prior to the month immediately preceding each of the following delivery period groups, the total volume of milk received from producers by all handlers was more or less than 115 percent of the total Class I milk disposed of by all handlers during such 12 month period the following adjustments shall be made to the price for Class I milk for the respective group of delivery periods:

Delivery period group—	For each percentage point that receipts from producers as a percent of Class I milk is—	
	Below 115 percent (add)	Above 115 percent (subtract)
January through March.....	1	2
April through June.....	0	2
July through December.....	2	2

(2) *Class II milk.* The price for Class II milk shall be the basic formula price.

(c) *Location differentials to handlers.* With respect to skim milk and butterfat contained in milk received from producers at a handler's city plant located outside the marketing area which is classified as Class I milk, and with respect to skim milk and butterfat contained in milk received from producers at a handler's country plant which is moved from such plant to a city plant and allocated as Class I milk pursuant to § 903.4 (f) (vii), or which is moved from such plant to a nonhandler's plant and classified as Class I milk pursuant to § 903.4 (d) (4), such a handler shall be allowed the amount per hundredweight set forth in the schedule below for the air-line distance from the City Hall in St. Louis within which is located the plant where the milk is first received:

Mileage zone	Amount per hundredweight (cents)
Not more than 10 miles.....	6
More than 10 but not more than 20 miles.....	12
More than 20 but not more than 30 miles.....	14
More than 30 but not more than 40 miles.....	16
Within each 10-mile zone thereafter— an additional 1 cent.	

(d) *Butterfat differential to handlers.* If the weighted average butterfat test of producer milk which is classified, respectively, in Class I milk or Class II milk for a handler, pursuant to § 903.4 (g), is more or less than 3.5 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each $\frac{1}{10}$ of 1 percent that such weighted average butterfat test is above or below 3.5 percent, a butterfat differential calculated for each class of utilization as follows:

(1) *Class I milk.* Multiply by 1.35 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

(2) *Class II milk.* Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

§ 903.6 *Application of provisions—(a) Producer-handlers.* Sections 903.4, 903.5, 903.7, 903.8, 903.9, and 903.10 shall not apply to a producer-handler.

§ 903.7 *Determination of uniform prices to producers—(a) Computation of the value of milk for each handler.* For

each delivery period the market administrator shall compute the value of milk received from producers by each handler, by multiplying the quantity in each class, computed pursuant to § 903.4 (g), by the price applicable to such class, subject to the differentials set forth in paragraphs (c) and (d) of § 903.5, and adding together the resulting values of each class: *Provided*, That if a handler, after subtracting receipts of other source milk and receipts from other handlers, has disposed of more skim milk or butterfat than, on the basis of his report for the delivery period pursuant to § 903.3 (a), has been credited to producers as having been received from them, there shall be added an amount computed by multiplying the pounds in each class as subtracted pursuant to subparagraphs (1) (viii) and (2) of § 903.4 (f) by the applicable class price adjusted by the butterfat differential to handlers.

(b) *Computation of the uniform price for each handler.* For each delivery period, the market administrator shall compute for each handler the uniform price per hundredweight of milk, of 3.5 percent butterfat content, f. o. b. the marketing area, received by such handler from producers as follows:

(1) Add to the value computed pursuant to paragraph (a) of this section the amount of any location adjustment to be made pursuant to § 903.8 (c);

(2) Subtract, if the average butterfat content of milk received from producers by such handler is more than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential to producers, and multiply the result by the total hundredweight of such milk;

(3) If, in the verification of the reports of such handler of his receipts and utilization of skim milk and butterfat, respectively, for any previous delivery period, the market administrator discovers errors in such reports which would have resulted in a different uniform price per hundredweight, including reclassification of skim milk and butterfat pursuant to § 903.4 (c) (2), there shall be added or subtracted, as the case may be, an amount of money necessary to correct such errors; and

(4) Divide the resulting amount by the total hundredweight of milk received from producers by such handler. The result, computed to the nearest full cent, shall be known as the uniform price for such handler for milk of 3.5 percent butterfat content, f. o. b. St. Louis, Missouri, marketing area.

§ 903.8 *Payment for milk—(a) Time and method of payment.* On or before the 15th day after the end of each delivery period, each handler shall make payment to each producer, for the total value of milk received from such producer during such delivery period, at not less than the uniform price per hundredweight computed for such handler pursuant to § 903.7 (b), subject to the location and butterfat differentials computed pursuant to paragraphs (b) and (c) of this section.

(b) *Butterfat differential to producers.* If any handler has received from any producer, during the delivery period, milk having an average butterfat content other than 3.5 percent, such handler, in making payments pursuant to paragraph (a) of this section, shall add to the uniform price for each $\frac{1}{10}$ of 1 percent that the average butterfat content of such milk is above 3.5 percent not less than, or shall deduct from the uniform price for each $\frac{1}{10}$ of 1 percent that the average butterfat content of such milk is below 3.5 percent not more than, the following amount: Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the resulting sum by 10.

(c) *Location differentials to producers.* In making payments pursuant to paragraph (a) of this section, each handler shall deduct with respect to milk received from producers at a plant located outside the market area, the amount per hundredweight of milk set forth in the schedule below for the airline distance from the City Hall in St. Louis within which is located the plant where the milk is first received:

Mileage zone	Amount per hundredweight of milk (cents)
Not more than 10 miles-----	6
More than 10 but not more than 20 miles-----	12
More than 20 but not more than 30 miles-----	14
More than 30 but not more than 40 miles-----	16
Within each 10-mile zone thereafter— an additional 1 cent.	

(d) *Errors in payment.* Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by this section, the handler shall pay such balance to such producer not later than the time of making payment to producers next following such disclosure.

(e) *Additional payments.* Any handler may make payments to producers in addition to the payments made pursuant to paragraph (a) of this section: *Provided*, That such additional payments should be made on a uniform basis to all producers from whom milk meeting special quality, volume production, or evenness of production standards has been received.

§ 903.9 *Expense of administration.* As his pro rata share of the expense of administration hereof, each handler shall pay to the market administrator, on or before the 15th day after the end of each delivery period, $2\frac{1}{2}$ cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts, during such delivery period, of milk from producers (including such handler's own production). Each handler, which is a cooperative association of producers, shall pay such pro rata share of expense on only that milk received from producers at a plant of such association.

§ 903.10 *Marketing service—(a) Deduction for marketing services.* Except

as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 903.8 (a), shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers (excluding such handler's own production) during the delivery period and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing the services set forth in paragraph (a) of this section, each handler, in lieu of the deductions specified in paragraph (a) of this section, shall make the deductions from the payments made pursuant to § 903.8 (a) which are authorized by such producers, and, on or before the 15th day after the end of each delivery period, pay over such deductions to the cooperative associations rendering such services of which such producers are members.

§ 903.11 *Unfair methods of competition.* Each handler shall refrain from acts which constitute unfair methods of competition by way of indulging in any practices with respect to the transportation of milk for, and the supplying of goods and services to, producers from whom milk is received, which tend to defeat the purpose and intent of the terms and provisions hereof.

§ 903.12 *Market advisory committee—(a) Representation, selection, approval, and removal.* Subsequent to the effective date hereof, representatives of producers, handlers, and consumers, respectively, may certify to the Secretary the selection of three individuals by each group for membership on the market advisory committee. Upon approval of the Secretary, the nine individuals so selected shall constitute the market advisory committee. Each member of the market advisory committee shall serve for a term of one year unless sooner removed by the Secretary. After the market advisory committee has been constituted, vacancies in the membership thereof shall be filled in the same manner as the original selections were made.

(b) *Powers.* The market advisory committee shall have the power to recommend to the Secretary amendments hereto originating within itself or submitted to it by interested parties, after a study of the facts available to the market advisory committee.

§ 903.13 *Effective time, suspension, and termination—(a) Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until sus-

pended or terminated, pursuant to paragraph (b) of this section.

(b) *Suspension and termination.* Any or all provisions hereof, or any amendment hereto, shall be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty.* (1) If, upon the suspension or termination pursuant to paragraph (b) of this section, there are any obligations arising hereunder the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator, shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(2) The market administrator, or such other person as the Secretary may designate shall (i) continue in such capacity until discharged, (ii) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (iii) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant hereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination pursuant to paragraph (b) of this section, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 903.14 *Separability of provisions.* If any provision hereof, or its application to any person or circumstance is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

§ 903.15 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

§ 903.16 *Termination of obligations.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose, except an

[7 CFR, Part 993]

[Docket No. AO-201]

HANDLING OF DRIED PRUNES PRODUCED IN CALIFORNIA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR 900.1 et seq.), a public hearing was held at San Francisco, California, on March 14 through 18, 1949, upon a proposed marketing agreement and a proposed marketing order regulating the handling of dried prunes produced in California.

Upon the basis of the evidence adduced at the aforementioned hearing, and the record thereof, the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, on June 27, 1949, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. Notice of such recommended decision, and opportunity to file written exceptions with respect thereto, was published in the FEDERAL REGISTER (14 F. R. 3622) on July 1, 1949, as corrected in the FEDERAL REGISTER (14 F. R. 3802) on July 9, 1949. The last day for filing such written exceptions has expired.

Ruling on exceptions. Exceptions to the recommended decision were filed by Melville Ehrlich, on behalf of the proponents, and Liberata B. Ruscigno. All of the exceptions have been considered carefully and fully in conjunction with the record evidence pertaining thereto in arriving at the findings and conclusions set forth in this decision. Rulings on certain of the exceptions are herein set forth in connection with the findings and conclusions to which the exceptions refer. To the extent that the findings and conclusions of this decision are at variance with the exceptions not otherwise specifically ruled upon, such exceptions are overruled.

Findings and conclusions. The material issues and the findings and conclusions of the aforesaid recommended decision (F. R. Doc. 49-5319; 14 F. R. 3622, 3802) are hereby approved and adopted as the material issues and the findings and conclusions of this decision as if set forth in full herein, except for the corrections set forth below, and except as they are modified by the rulings on the exceptions hereinafter set forth. The corrections are as follows: (a) In the description of District No. 6, in § 993.2 (c) (2) of the order, "San is Obispo" should be "San Luis Obispo"; (b) In the next to the last sentence of § 993.4 (b) (3) of the order, the phrase "submitted to it by the Secretary" should be "submitted by it to the Secretary"; and (c) In the last sentence of the first paragraph of § 993.5 (e) (1) (v) of the order, the phrase "or used for manufacturing" should be "or uses for manufacturing."

(1) Exceptions were taken to those provisions, in the first sentences of para-

graphs (b) and (c), respectively, of § 993.5, relating to the formula computations for the determinations of the salable and surplus tonnages of prunes. It was conceded that such computations would produce the desired and correct results, but the exceptions were aimed at the stating of such matter in simpler, and more readily understandable, language. In this connection, it was emphasized that such formulas would be used by handlers, producers, and dehydrators, and that simplicity of language would insure that the interpretation as to the method of computation would be on a uniform basis. These exceptions are granted to the extent that the computation provisions should be restated in simpler and more readily understandable language. Therefore, the first sentence in the seventh paragraph (14 F. R. 3630) of the discussion under paragraph (e) in the recommended decision, reading: "The salable tonnage of prunes of a handler should be the tonnage resulting from the application of the salable percentage to the total quantity of prunes delivered to such handler by producers and dehydrators, plus the quantity covered by diversion certificates, less the sum of the amounts by which the substandard prunes delivered by each producer and dehydrator exceeds the quantity arrived at by the application of the surplus percentage to the total quantity delivered by each such producer and dehydrator less the quantity covered by diversion certificates issued to each such producer and dehydrator and held by the handler," is deleted, and the following is substituted in lieu thereof: "The salable tonnage of prunes of a handler should be the sum of the salable tonnage portions of the prunes delivered to the handler by individual producers and dehydrators. The salable tonnage portion of prunes delivered to the handler by an individual producer or dehydrator should be the tonnage resulting from the application of the salable percentage to the quantity of prunes (including standard and substandard prunes) so delivered, plus any tonnage of standard prunes delivered by such producer or dehydrator to the handler and covered by a diversion certificate; however, if the salable tonnage portion so computed exceeds the quantity of standard prunes delivered to the handler by the individual producer or dehydrator, it should be reduced to the quantity of standard prunes so delivered." Also, the first sentence in the eighth paragraph (14 F. R. 3630) of the discussion under paragraph (e) of the recommended decision, reading: "The surplus tonnage of prunes of a handler should be the tonnage resulting from the application of the surplus percentage to the total quantity of prunes delivered to such handler by producers and dehydrators, less the quantity covered by diversion certificates, plus the sum of the amounts by which the substandard prunes delivered by each producer and dehydrator exceeds the quantity arrived at by the application of the surplus percentage to the total quantity delivered by each such producer and dehydrator less the quantity covered by diversion certificates issued to each such producer

obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

[F. R. Doc. 49-6144; Filed, July 26, 1949; 8:51 a. m.]

and dehydrator and held by the handler," is deleted, and the following substituted in lieu thereof: "The surplus tonnage of prunes of a handler should be the sum of the surplus tonnage portions of the prunes delivered to the handler by individual producers and dehydrators. The surplus tonnage portion of prunes delivered to the handler by an individual producer or dehydrator should be the tonnage resulting from the application of the surplus percentage to the quantity of prunes (including standard and substandard prunes) so delivered, less any tonnage of standard prunes delivered by such producer or dehydrator to the handler and covered by a diversion certificate; however, if the surplus tonnage portion so computed is less than the quantity of substandard prunes delivered to the handler by the individual producer or dehydrator, it should be increased to the quantity of substandard prunes so delivered." Corresponding changes should be made in the indicated provisions of the order.

(2) Exception was taken to the proposal that the giving of a bond be made a mandatory condition to the granting of authorization to a handler to defer the fulfilling of his surplus tonnage obligation for a specified period. It was argued that the proposed provision would place a premium on violations; and that there is no basis in the hearing evidence for such a provision. It was suggested that, in lieu of making such a requirement mandatory in all instances, the order provide that such deferments be permitted under rules and regulations to be prescribed subsequently by the committee, or, in the alternative, to make the requirement for the giving of bond discretionary, rather than mandatory, on the part of the committee; and in any event, that no "yardstick" be prescribed for the fixing of the amounts of such bonds but that such aspect be left to the discretion of the committee in each case. This exception is denied. It would be inequitable and discriminatory as between handlers to require one handler to give a bond in such a case and not require another handler to give such a bond. That is to say, the same general treatment must be accorded all handlers in the matter. Further, such a requirement should provide a needed safeguard to insure that handlers will meet their surplus tonnage obligations by the expiration of the deferment periods and that producers' equities in the surplus tonnage will be protected. The requirement for such a bond is not intended to operate as a penalty on the handler in case of his default, but to provide recompense or reimbursement, insofar as is practicable, to the producers for the loss which they would otherwise suffer as a result of such default. Any violation in that regard would be treated through the criminal and other enforcement provisions in the act relating to violations, which are wholly separate and apart from the proposed bond provisions in the order. As was stated in the recommended decision of the Assistant Administrator, the amount of such bond should be computed on the basis of the then current market value of prunes in the quan-

tity for which the deferment is granted. The exceptor's contention that such value cannot be determined at the time the bond is given, apparently is based on the assumption that the value would be that of the prunes which the handler would use eventually to fulfill his surplus obligation. However, the bond value is to be computed for the particular quantities of the respective sizes of the standard prunes which the handler would be required to put in the surplus pool if he should make an accounting at that time. Since the standard prunes for which the deferment is granted are to be sold in commercial market channels, they should be valued, for bond purposes on the basis of their commercial value. The amount of the bond is not to be based on the value of the prunes which the handler will use to fulfill his surplus obligation by the end of the deferment period. Of course, the handler must repay to the committee, for the account of the particular persons whose equities are involved, by the end of the deferment period, standard prunes in the same quantity and of sizes of at least the same value as the standard prunes for which the deferment was granted; otherwise such persons' equities in the surplus tonnage would be reduced. It is intended that any deferment granted will be on the basis of the surplus position of the particular handler existing as of that time. For the purposes of the order, the handler, and the committee, must necessarily know at such time the amount of his surplus obligation in terms of the quantities, grades, and sizes of prunes which are attributable to his receipts from each producer and dehydrator, and for which he must account to the surplus pool. Therefore, in fixing the amount of such a bond, the committee will need only to consider such individual quantities in terms of their respective grades and sizes multiplied by the appropriate commercial market values, and add the several amounts. The amount of the bond could, of course, be adjusted, from time to time, to cover subsequent changes in the surplus tonnage obligations of a handler which are involved in the deferment action. In arguing that there is no basis in the hearing record for making the giving of the bond a mandatory condition, the exceptor is apparently relying on the fact that the incorporation of such a provision as a mandatory condition was not proposed or supported at the hearing by the proponents of the program. In deciding upon provisions which should be included in regulatory programs of this proposed nature, the Secretary is not restricted to the details of provisions which are proposed specifically and supported at the hearing, but he is free to incorporate in such programs any provisions which are reasonably within the scope of the subject matter raised by the hearing notice and which he believes best meet the needs of the particular program and tend to effectuate the declared policy of the act.

The aforementioned findings and conclusions are supplemented by the following general findings.

General findings. (1) The proposed marketing agreement and order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The proposed marketing agreement and order will be applicable only to persons in the respective classes of industrial and commercial activities specified in the proposals upon which the hearing was held;

(3) There are no differences in the production and marketing of said commodity in the production area covered by the proposed marketing agreement and order which make necessary different terms applicable to different parts of such area;

(4) The production area, as set forth in the proposed marketing agreement and order, is the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act;

(5) The handling of all dried prunes produced in California is either in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce; and

(6) It is hereby found and proclaimed that the purchasing power of dried prunes during the August 1909-July 1914 base period specified in section 2 (1) of the act, can be determined satisfactorily from available statistics of the United States Department of Agriculture, and such period is the base period to be used in connection with the determination of the purchasing power of dried prunes under this order.

Marketing agreement and order. Annexed hereto, and made a part hereof, are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Dried Prunes Produced in California," and "Order Regulating the Handling of Dried Prunes Produced in California," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. The marketing agreement and order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered, That all of this decision, except the annexed agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the said agreement are identical with those contained in the attached order, which will be published with this decision.

Done at Washington, D. C., this 22d day of July 1949.

[SEAL]

CHARLES F. BRANNAN,
Secretary of Agriculture.

Order¹ Regulating the Handling of Dried Prunes Produced in California

Sec.
993.0 Findings and determinations.
993.1 Definitions.

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders have been met.

Sec.	
993.2	Prune Administrative Committee.
993.3	Marketing policy.
993.4	Grade and size regulations.
993.5	Salable and surplus tonnage regulations.
993.6	Reports and books and other records.
993.7	Expenses and assessments.
993.8	Personal liability.
993.9	Separability.
993.10	Derogation.
993.11	Duration of immunities.
993.12	Agents.
993.13	Effective time, termination or suspension.
993.14	Effect of termination or amendment.
993.15	Amendments.

AUTHORITY: §§ 993.0 to 993.15 issued under 46 Stat. 31, 670, 675; 49 Stat. 750; 50 Stat. 246; 7 U. S. C. 601 et seq.

§ 993.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and in accordance with the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR 900.1 et seq.), a public hearing was held at San Francisco, California, March 14 through 18, 1949, upon a proposed marketing agreement and a proposed marketing order regulating the handling of dried prunes produced in California. Upon the basis of the evidence adduced at such hearing, and the record thereof, it is found that:

(1) This order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) This order is applicable only to persons in the respective classes of industrial and commercial activities specified in the proposals upon which the hearing was held;

(3) There are no differences in the production and marketing of dried prunes in the production area covered by this order which make necessary different terms applicable to different parts of such area;

(4) The production area, as set forth in this order, is the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act;

(5) The handling of all dried prunes produced in California is either in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce; and

(6) It is hereby found and proclaimed that the purchasing power of dried prunes during the August 1909–July 1914 base period specified in section 2 (1) of the act can be determined satisfactorily from available statistics of the United States Department of Agriculture, and such period is the base period to be used in connection with the determination of the purchasing power of dried prunes under this order.

Order relative to handling. It is, therefore, ordered that the handling of dried prunes produced in California shall, from the effective time hereof, be in conformity to and in compliance with the terms and conditions of this order:

§ 993.1 *Definitions.* As used herein, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to exercise the powers and to perform the duties of the Secretary under the act.

(b) "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

(c) "Person" means an individual, partnership, corporation, association, or any other business unit.

(d) "Prunes" means and includes all sun-dried or artificially dehydrated plums, of any type or variety, produced from plums grown in the State of California, except sulfur-bleached prunes which are produced from yellow varieties of plums and are commonly known as silver prunes, except as used in § 993.5 (d).

(e) "Natural condition prunes" means prunes which have not been processed.

(f) "Processed prunes" means prunes which have been cleaned, or treated with water or steam: *Provided*, That prunes shall not become processed prunes at the time they are cleaned by a producer or a dehydrator in the course of preparing them for delivery to a producer, dehydrator, or handler.

(g) "Standard prunes" means any lot of natural condition prunes meeting the applicable grade and size standards prescribed pursuant to § 993.4.

(h) "Standard processed prunes" means any lot of processed prunes meeting the applicable grade and size standards prescribed pursuant to § 993.4.

(i) "Substandard prunes" means any lot of processed or natural condition prunes failing to meet the applicable grade and size standards prescribed pursuant to § 993.4.

(j) "Handle" means to receive, process, package, sell, consign, transport, or ship or in any other way to place prunes in the current of commerce (except as a carrier of prunes owned by another person), whatever may be the ultimate destination or end use of the prunes: *Provided*, That, this term shall not include: (1) The selling or delivering of prunes by a producer or dehydrator to a producer, dehydrator, or handler within the State of California; (2) the receiving of prunes by a producer or dehydrator from a producer or dehydrator; and (3) the buying, receiving, selling, or otherwise dealing by a person with prunes which have already been handled within the meaning of this definition by another person, but this exclusion shall be of no effect for the purpose of applying the applicable restrictions of paragraph (b) of § 993.4 to the subsequent handling of prunes in the event a handler's prunes are excepted from restrictions in the manner specified in subdivision (i) of subparagraph (5) of paragraph (b) of § 993.4.

(k) "Handler" means any person who handles prunes.

(l) "Dehydrator" means any person who produces prunes by drying or dehydrating plums by means of sun-drying or artificial heat.

(m) "Producer" means any person who is engaged, in a proprietary capacity, in growing plums for drying or dehydrating into prunes.

(n) "Ton" means a short ton of 2,000 pounds.

(o) "Grade" means the classification of prunes for quality and condition according to the grading specifications established pursuant to the provisions hereof.

(p) "Size" means the number of prunes contained in a pound or the classification of prunes into their various count groups in accordance with the usual practice of the industry.

(q) "Crop year" means the 12-month period beginning August 1 of any year and ending July 31 of the following year, except that the first crop year hereunder shall begin on the effective date hereof and terminate on July 31 of the following year.

(r) "Domestic" means the continental United States, Alaska, Canal Zone, Hawaii, Puerto Rico, Virgin Islands, and Canada.

(s) "Proper storage" means storage of such character as will maintain prunes in the same condition as when received by the handler, except for normal and natural deterioration and shrinkage.

§ 993.2 *Prune Administrative Committee*—(a) *Establishment.* A Prune Administrative Committee (hereinafter referred to as the "committee"), consisting of 21 members, with an alternate member for each such member, is hereby established to administer the terms and provisions hereof, of whom, with their respective alternates, 14 shall represent producers and seven shall represent handlers.

(b) *Designation of initial members and alternates.* The initial producer members of the committee, and their respective alternates, shall be the same as the producer members, and their respective alternates, of the Prune Program Committee under the Marketing Program for Prunes, as amended, established under the provisions of the Agricultural Producers Marketing Act of the State of California, who are serving in such capacities at the effective time hereof. The initial handler members of the committee, and their respective alternates, shall be the members, and their respective alternates, of the Dried Prune Advisory Board under the Marketing Order for California Dried Prunes, as amended, established under the provisions of the California Marketing Act of 1937, who are serving in such capacities at the effective time hereof. Such initial members and alternate members shall serve until May 31, 1950, and any further time which may be required for the selection and qualification of their respective successors. In the event that a vacancy should occur during the term of office of the initial members and their respective alternates, such vacancy shall be filled by appointment by the Secretary, but from the same category (producer or handler) within which the vacancy occurs.

(c) *Nomination and selection of successor members and alternates*—(1) *General.* The term of office of successors

to initial members, and their respective alternates, shall be two years, ending on May 31, and any later date which may be necessary for the selection and qualification of their respective successors. Selection of successor members of the committee, and their respective alternates, shall be made by the Secretary, for the producer and handler groups from the nominations submitted for that purpose by the respective groups, or from among other qualified persons, in the discretion of the Secretary, but such selections shall be made by the Secretary from the classes within each group and in the proportions set forth in subparagraphs (2) and (3) of this paragraph. Each producer member and alternate member of the committee shall be, during his term of office, a producer in the district from which he is appointed, and, if such person also handled prunes during the crop year immediately preceding that for which he is selected, at least 51 percent of the prunes so handled by him during such preceding crop year must have been produced from plums grown by him: *Provided*, That, producer-at-large members and their alternates, if they otherwise meet the foregoing eligibility requirements, may be producers in any districts. Each handler member and alternate member of the committee shall be either a handler of prunes or an employee or agent of a handler of prunes actually engaged in the handling of prunes while he is such member or alternate member.

(2) *Producer nominees*—(i) *Independent producers*. One nominee for member on the committee and one nominee for an alternate member shall be nominated to the Secretary by majority vote in elections in which only producers who are not members of a cooperative marketing association shall participate in each of the seven districts in the State of California which are hereinafter described. The committee shall cause such elections to be held in each district in each election year prior to March 31. At such election, each such producer shall be entitled to cast only one vote in each balloting for member nominee and in each balloting for alternate member nominee and each such producer shall be permitted to vote only in a district in which he is a producer. No producer shall vote in more than one district. In case a producer is a producer in more than one district, he shall elect by written notification to the committee in which of such districts he will cast his vote for such nominees. The seven districts which are referred to herein are described as follows:

District No. 1. The counties of Siskiyou, Modoc, Shasta, Trinity, Lassen, Plumas, Sierra, Tehama, Glenn, Butte, Colusa, Sutter, Yuba, Nevada, and Placer.

District No. 2. The counties of Napa, Yolo, and Solano.

District No. 3. The counties of Mendocino, Lake, Sonoma, Marin, Del Norte, and Humboldt.

District No. 4. The counties of San Francisco, San Mateo, and Santa Cruz, and all that portion of the territory in Santa Clara County west of a line described as follows: beginning at the intersection of Alviso Road and San Francisco Bay in Alviso; thence south via Alviso Road to First Street in San Jose; thence south on said First Street to

San Carlos Street in San Jose; thence west on San Carlos Street to Meridian Road; thence south on Meridian Road to Dry Creek Road; thence west on Dry Creek Road to the San Jose-Los Gatos Highway; thence southwesterly on the San Jose-Los Gatos Highway to Union Avenue, also known as Ware Avenue; thence south on Union Avenue, also known as Ware Avenue, along a straight line continuing to the Santa Cruz County line.

District No. 5. All of Alameda County, and that part of Santa Clara County east and south of District No. 4, extending in a southerly direction to a straight line extending from along the main portion of the Cochran Road, northeasterly to the Stanislaus County line and southwesterly to the Santa Cruz County line.

District No. 6. The counties of San Benito, Monterey, and San Luis Obispo, and all of that portion of Santa Clara County not included in Districts No. 4 and No. 5.

District No. 7. All of the counties in the State of California not included in Districts No. 1 to No. 6, inclusive.

(ii) *Cooperative producers*. Prior to March 1 of each election year, the committee shall report to the Secretary the total tonnage of prunes handled by all handlers as the first handlers thereof and the total tonnage of prunes handled by cooperative marketing associations as the first handlers thereof during the year ending on January 31 of such election year. Prior to March 15 of each election year, the Secretary shall determine and announce the number of producer member nominees and producer alternate member nominees which shall be nominated by cooperative marketing associations handling prunes on behalf of their members. Such number of nominees shall bear, as far as practicable, the same percentage compared to the total of 14 producer members and their alternates as the prune tonnage handled by cooperative marketing associations as the first handlers thereof bears to the total tonnage handled by all handlers as the first handlers thereof during the year ending on January 31 of such election year. Prior to March 31 of each election year, the cooperative marketing associations handling prunes shall nominate to the Secretary on behalf of their members, such number of producer nominees and their respective alternates.

(iii) *Producers-at-large*. The number of nominees and their respective alternates then required to make up the total of 14 producer member nominees and their alternates shall be nominated to the Secretary by the seven independent producer nominees nominated for members on the committee pursuant to the provisions of this section. Such nominations shall be made prior to April 15 and shall be by majority vote.

(3) *Handler nominees*. Prior to March 15 of each election year, the Secretary shall determine and announce the number of handler member nominees and handler alternate member nominees which shall be nominated by cooperative marketing associations handling prunes, on the same basis as his determination of the number of cooperative producer nominees, as set forth in subparagraph (2) (ii) of this paragraph. Prior to March 31 of each election year, the cooperative marketing associations handling prunes shall nominate to the Secretary such number of handler member

nominees and their respective alternates. Prior to March 31, at a meeting called for that purpose by the committee, the number of handler member nominees required to make up the total of seven and their respective alternates shall be nominated to the Secretary by the handlers who are not cooperative marketing associations, on the basis of a majority vote of all such handlers present and participating in the voting, and on the further basis of one vote for each handler in each balloting.

(d) *Alternates*. An alternate for a member of the committee shall act in the place and stead of such member (1) during his absence, and (2) in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified.

(e) *Failure to nominate*. In the event nominations for any positions on the committee are not received within the prescribed periods, the Secretary may select such members or their alternates, without regard to nominations, but each such selection shall be on the bases prescribed herein.

(f) *Acceptance*. Each person selected as a member or alternate member of the committee shall, prior to serving on the committee, qualify by filing with the Secretary a written acceptance within 15 days after receiving notice of his selection.

(g) *Vacancies*. Except in the case of initial members and alternates, in the event of any vacancy occasioned by the failure of any person selected as a member or alternate member of the committee to qualify, or, by the removal, resignation, disqualification, or death of any member or alternate member, a successor for such person's unexpired term shall be nominated within 20 calendar days after such vacancy occurs and selected in the manner provided in this section, insofar as applicable.

(h) *Obligation*. Upon the removal, resignation, disqualification, or expiration of the term of office of any member or alternate member of the committee, such member or alternate member shall account for all receipts and disbursements and deliver to his successor, to the committee, or to a designee of the Secretary all property (including, but not limited to, all books and records) in his possession or under his control as member or alternate member, and he shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, committee, or designee full title to such property and funds, and all claims vested in such member or alternate member. Upon the death of any member or alternate member of the committee, full title to such property, funds, and claims vested in such member or alternate member shall be vested in his successor or, until such successor has been selected and has qualified, in the committee.

(i) *Voting procedure and verbatim record*. Except as specifically otherwise provided in this paragraph, all decisions of the committee shall be by majority vote of the members present and voting and a quorum must be present. A

quorum shall consist of at least 12 members of whom at least eight must be producer members and at least four must be handler members. Except in case of emergency, a minimum of five days advance notice must be given with respect to any meeting of the committee. In case of an emergency, to be determined within the discretion of the chairman of the committee, as much advance notice of a meeting as is practicable in the circumstances shall be given. The committee may vote by mail or telegram upon due notice to all members, but any proposition to be so voted upon first shall be explained accurately, fully, and identically by mail or telegram to all members. When any proposition is submitted for voting by such method, one dissenting vote shall prevent its adoption. Any recommendation submitted to the Secretary by the committee, pursuant to the requirements of §§ 993.3, 993.4, or 993.5, shall be on the basis of an affirmative vote by at least 16 members, and the committee shall file with the Secretary, along with such recommendations to the Secretary, a verbatim record of those portions of its meetings relating to such requirements. After any proposition is voted upon by the committee, it shall report promptly to the Secretary the individual affirmative or negative vote on such proposition of each member and of each alternate member acting in the place of a member.

(j) *Compensation and expenses.* The members of the committee, and their alternates when acting as members, shall receive \$10.00 per day for each day devoted to performing their duties hereunder, plus their reasonably necessary expenses.

(k) *Powers.* The committee shall have the following powers:

(1) To administer the terms and provisions hereof;

(2) To make rules and regulations to effectuate the terms and provisions hereof;

(3) To receive, investigate, and report to the Secretary complaints of violations hereof; and

(4) To recommend to the Secretary amendments hereto.

(l) *Duties.* The committee shall have, among others, the following duties:

(1) To act as intermediary between the Secretary, and any producer, dehydrator, or handler;

(2) To keep minutes, books, and other records which shall clearly reflect all of its acts and transactions, and such minutes, books, and other records shall be subject to examination by the Secretary at any time;

(3) To make, subject to the prior approval of the Secretary, scientific and other studies, and assemble data on the producing, handling, shipping, and marketing conditions relative to prunes, which are necessary in connection with the performance of its official duties;

(4) To select, from among its members, a chairman and other appropriate officers, and to adopt such rules and regulations for the conduct of the business of the committee as it may deem advisable;

(5) To appoint or employ such other persons as it may deem necessary, and

to determine the salaries and define the duties of such persons;

(6) To submit to the Secretary not later than June 20, a budget of its anticipated expenditures and the recommended rate of assessment for the ensuing crop year, and the supporting data therefor: *Provided, That, with respect to the initial crop year hereunder, such budget, recommended rate of assessment, and supporting data shall be submitted to the Secretary as soon as practicable after the effective date hereof.*

(7) To submit to the Secretary such available information with respect to prunes as the committee may deem appropriate, or as the Secretary may request;

(8) To prepare and submit to the Secretary monthly statements of the financial operations of the committee, exclusive of surplus tonnage operations, and to make such statements, together with the minutes of the meetings of said committee, available for inspection at the offices of the committee, by producers, dehydrators, and handlers;

(9) To prepare and submit to the Secretary annually, as soon as practicable after the end of each crop year and at such other times as the committee may deem appropriate or the Secretary may request, a statement of the financial operations of the committee with respect to the surplus tonnage for such crop year and to make such statement available at the offices of the committee, for inspection by producers, dehydrators, and handlers;

(10) To cause the books of the committee to be audited by a certified public accountant at least once each crop year, and at such other times as the committee may deem necessary or as the Secretary may request. Such report shall show, among other things, the receipt and expenditure of funds. At least two copies of such audit report shall be submitted to the Secretary; a copy of each such report shall be available, at the offices of the committee, for inspection by producers, dehydrators, and handlers;

(11) To give the Secretary the same notice of meetings of the committee as is given to the members of the committee;

(12) To give producers, dehydrators, and handlers reasonable advance notice of meetings of the committee, and to maintain all such meetings open to such persons;

(13) To investigate compliance with the provisions hereof and with any rules and regulations established pursuant to such provisions; and

(14) To establish, with the approval of the Secretary, such rules and procedures relative to administration hereof as may be consistent with the provisions herein contained and as may be necessary to accomplish the purposes of the act and the efficient administration hereof.

§ 993.3 *Marketing policy*—(a) *Basis.* Prior to the beginning of each crop year, but in respect to the first crop year hereunder as soon as practicable after the effective date hereof, the committee shall prepare and submit to the Secretary a report setting forth its marketing policy

for the regulation of the handling of prunes in such crop year, pursuant to §§ 993.4 and 993.5. Such report shall include the data and information used by the committee in the formulation of such marketing policy. In developing the marketing policy, the committee shall give consideration to the following factors:

(1) The estimated tonnage of prunes from preceding crop years held by handlers;

(2) The estimated tonnage of prunes from preceding crop years held by producers and dehydrators;

(3) The estimated production of prunes in such crop year;

(4) An appraisal of the quality and size of prunes of the crop to be produced in such crop year;

(5) The estimated tonnage of prunes marketed in recent crop years segregated by countries as to foreign commerce and segregated by uses as to domestic commerce;

(6) The current prices being received for prunes by producers, dehydrators, and handlers;

(7) The trend and level of consumer income;

(8) The estimated probable market requirements for prunes in such crop year segregated by countries as to foreign commerce and segregated by uses as to domestic commerce; and,

(9) Such other factors as may have a bearing on the marketing of prunes.

(b) *Policy meeting.* The committee shall hold a meeting for the purpose of formulating and adopting the marketing policy for any crop year not later than June 15 preceding the beginning of such crop year: *Provided, That, with respect to the first crop year hereunder, the committee shall hold a meeting for such purpose as soon as practicable after the effective date hereof.*

(c) *Time of submission.* The marketing policy report for any crop year shall be submitted to the Secretary not later than June 20 preceding the beginning of such crop year: *Provided, That, with respect to the first crop year hereunder, the marketing policy report shall be submitted to the Secretary as soon as practicable after the effective date hereof.*

(d) *Modifications or changes.* In the event the committee subsequently determines that such marketing policy should be modified or changed by reason of change in economic or other conditions, it shall make such modification or change in the manner provided for above for the original formulation of a marketing policy, insofar as applicable, and shall submit promptly a report of such modified or changed marketing policy to the Secretary, along with the data which it considered in connection with the making of such modification or change.

(e) *Notice.* The committee shall give reasonable notice through newspapers having general circulation in the area and may give such notice through other channels, if the committee deems it desirable, to producers, dehydrators, and handlers of the contents of each marketing policy report submitted to the Secretary and each report modifying or changing a marketing policy. Copies

of all such reports shall be maintained in the offices of the committee where they shall be available for examination by producers, dehydrators, and handlers.

§ 993.4 *Grade and size regulations—*
(a) *Receiving of natural condition prunes by handlers—*(1) *General.* In order to effectuate the declared policy of the act, no handler shall receive prunes from producers or dehydrators, except in accordance with the terms and conditions with respect to grades and sizes set forth in this paragraph.

(2) *Initial regulation.* Effective as of the effective time hereof and continuing until such regulation is superseded by other regulations prescribed by the Secretary, no handler shall receive prunes from producers or dehydrators, other than as substandard prunes, unless they meet the minimum standards for natural condition prunes as set forth in Exhibit A, which is attached hereto and made a part hereof.

(3) *Superseding regulation.* In case the committee should recommend to the Secretary that the initial minimum standards as to grade, as provided for in subparagraph (2) of this paragraph, should be superseded by other minimum standards as to grades and sizes, it shall submit its recommendation to the Secretary, together with the data and information upon which it acted in making such recommendation, including information as to factors affecting the supply of, and demand for, prunes by grades and sizes, and such other information as the Secretary may request. The Secretary shall issue such superseding regulation if he finds, upon the basis of the recommendation and supporting data submitted to him by the committee, or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act. Any such superseding regulation, insofar as it applies to grades, shall not be below the applicable minimum standards for grades of natural condition prunes as set forth in the aforementioned Exhibit A, and any such minimum standards for grades shall provide a maximum tolerance for total defects, and may provide a maximum tolerance for single defects or classes of defects. Any superseding regulations issued by the Secretary shall subsequently be modified, suspended, or terminated, in case he finds that the pertinent facts and circumstances so warrant; and the committee, in submitting any recommendation therefor to the Secretary, shall, in each instance, submit to him the information and data on the basis of which such recommendation is made. The committee shall give prompt notice through newspapers having general circulation in the area and may give such notice through other channels, if the committee deems it desirable, to handlers, dehydrators, and producers of each recommendation submitted by it to the Secretary and of each superseding regulation issued by the Secretary. Such notice of each regulation issued shall include, but not be limited to, written notice by registered mail to all handlers of whom the committee has a record.

(4) *Inspection.* Each handler shall, at his own expense, cause an inspection to be made of prunes tendered to him by any producer or dehydrator. Prior to accepting any such tender of prunes as prunes meeting the applicable minimum standards for grades and sizes, each such handler shall obtain a certificate that the prunes meet the aforementioned requirements for standard prunes as established pursuant to the provisions of subparagraphs (2) or (3) of this paragraph, and said handler shall submit such certificate, or cause it to be submitted, together with such other instruments and records as the committee may require, to the committee. Such certificates shall be issued by inspectors of the Dried Fruit Association of California, No. 1 Drumm Street, San Francisco, California. The Secretary may designate another inspection agency in the event the services of the Dried Fruit Association of California prove unsatisfactory. Any prunes so certified as meeting the applicable requirements shall be known and referred to as standard prunes.

(5) *Substandard natural condition prunes—*(i) *Producer's or dehydrator's option as to sorting.* Any natural condition prunes tendered to a handler by a producer or dehydrator which fail to meet the applicable minimum standards as to grades and sizes, may, at the producer's or dehydrator's option, be returned to such producer or dehydrator for sorting, or, by agreement between such producer and handler or dehydrator and handler, may be sorted by the handler for the account of the producer or dehydrator, or turned over to the handler unsorted to be held by him for the account of the committee. Any such natural condition prunes taken in by or turned over to a handler shall be known and referred to as substandard prunes, and, except as otherwise specifically provided, such prunes shall be treated the same as and be subject to the same provisions respecting surplus prunes, as contained in § 993.5. Any such substandard prunes, except those referred to in subdivision (ii) of paragraph (b) (5) of this section, shall be held by a handler separate and apart from any standard prunes held by him.

(ii) *Sorting by handler.* In the event a producer or dehydrator should elect to arrange with a handler for the sorting of any substandard prunes tendered by him to such handler, the inspection agency designated to make inspections of prunes shall issue, at the handler's expense, a certificate of appraisal on such prunes so tendered, which shall show the percent of off-grade prunes therein which is in excess of the tolerances established for standard prunes. A quantity of prunes equivalent to the weight of such off-grade prunes represented by the application of such percentage to the total tonnage so appraised and certified, shall be treated as substandard prunes in the manner provided for in subdivision (i) of this subparagraph. No certificate of inspection on such substandard natural condition prunes so tendered shall be required after a certificate of appraisal has been issued applicable to such prunes.

(b) *Regulation of the handling of prunes subsequent to their receipt by handlers—*(1) *General.* In order to effectuate the declared policy of the act, no handler shall ship or otherwise make final disposition of natural condition prunes or of processed prunes, except in accordance with the terms and conditions hereof.

(2) *Initial regulation.* Effective as of the effective time hereof, and continuing until such regulation is superseded by other regulations prescribed by the Secretary, except as otherwise specifically provided, no handler shall ship or otherwise make final disposition of natural condition prunes or of processed prunes, which fail to meet the applicable minimum standards set forth in the aforementioned Exhibit A for standard prunes or standard processed prunes.

(3) *Superseding regulation.* In case the committee should recommend to the Secretary that the initial minimum standards as to grade, as provided for in subparagraph (2) of this paragraph, should be superseded by other minimum standards as to grades and sizes, it shall submit its recommendation to the Secretary together with the data and information upon which it acted in making such recommendation, including information as to factors affecting the supply of, and demand for, prunes by grades and sizes, and such other information as the Secretary may request. The Secretary shall issue such superseding regulation if he finds, upon the basis of the recommendation and supporting data submitted to him by the committee, or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act. Any such superseding regulation, insofar as it applies to grades, shall not be below the applicable minimum standards for grades of standard prunes or standard processed prunes, as set forth in the aforementioned Exhibit A, and any such minimum standards for grades shall provide a maximum tolerance for total defects, and may provide a maximum tolerance for single defects or classes of defects. Any superseding regulation issued by the Secretary may subsequently be modified, suspended, or terminated in case he finds that the pertinent facts and circumstances so warrant; and the committee, in submitting any recommendation therefor to the Secretary shall, in each instance, submit to him the information and data on the basis of which such recommendation is made: *Provided,* That, at all times, the regulation shall be comparable so far as practicable, to the then current regulation in effect with respect to the receiving of natural condition prunes by handlers from producers or dehydrators. The committee shall give prompt notice through newspapers having general circulation in the area and may give such notice through other channels, if the committee deems it desirable, to handlers, dehydrators, and producers of each recommendation submitted by it to the Secretary and of each superseding regulation issued by the Secretary. Such notice of each regulation issued shall include, but not be limited to, written notice by registered mail to all

handlers of whom the committee has a record.

(4) *Inspection.* Each handler shall, at his own expense, before shipping or otherwise making final disposition of prunes, unless they are specifically excepted hereby, cause an inspection to be made of such prunes to determine whether they meet the then applicable grade and size standards for standard prunes or standard processed prunes. Each such handler shall not ship or otherwise make final disposition of such prunes, for any use unless they are specifically excepted hereby, if they do not meet such minimum standards. Such handler shall obtain a certificate that such prunes meet the aforementioned minimum standards and such handler shall submit such certificate, or cause it to be submitted, together with such other instruments and records as the committee may require, to the committee. Such certificates shall be issued by inspectors of the Dried Fruit Association of California, No. 1 Drumm Street, San Francisco, California. The Secretary may designate another inspection agency in the event the services of the Dried Fruit Association of California prove unsatisfactory.

(5) *Exceptions to restrictions—(1) Inter-plant and inter-handler transfers.* Notwithstanding the restrictions contained in subparagraphs (2) or (3) of this paragraph, any handler may transfer prunes from one plant owned by him to another plant owned by him within the State of California without having any inspection made as provided for in subparagraph (4) of this paragraph, and any handler may ship prunes from his plant to another handler's plant within the State of California without having an inspection made as provided for in subparagraph (4) of this paragraph. A report of such inter-handler transfer shall be made promptly by the transferring handler to the committee. The receiving handler shall, before shipping or otherwise making final disposition of such prunes, comply with the requirements of this paragraph.

(ii) *Defective prunes accumulated from standard prunes.* Any defective prunes which may be accumulated by a handler, by removing them from standard prunes, may be marketed only for disposition as animal feed, as pitted prunes, or as prune products, in which they lose their form and character as prunes, by conversion prior to consumption, and the committee shall establish any such rules and regulations as may be necessary to insure such uses. Such defective prunes may be shipped or disposed of for the purposes specified in this subdivision (ii) without regard to the restrictions contained in subparagraphs (2), (3), and (4) of this paragraph.

§ 993.5 *Salable and surplus tonnage regulations—(a) Method of establishment.* After considering all available information and factors used in formulating the marketing policy, the committee, prior to July 15 in any crop year except the first crop year under the operation hereof, and in the first crop year, as soon as practicable after the effective date hereof, shall recommend to the Sec-

retary the establishment of a salable percentage and a surplus percentage during the crop year for which the marketing policy has been developed. Whenever the Secretary finds from the recommendation and information submitted by the committee, or from other available information, that to establish a salable percentage and surplus percentage of prunes for any crop year would tend to effectuate the declared policy of the act, he shall so establish such percentages. The total of the salable and surplus percentages fixed each crop year shall equal 100 percent. The salable and surplus percentages fixed for any crop year as provided herein, shall remain in full force and effect throughout the remainder of that crop year and during the following crop year until such percentages are fixed for the following crop year. The committee shall give prompt notice, through newspapers having general circulation in the area and may give such notice through other channels, if the committee deems it desirable, to handlers, dehydrators, and producers of each recommendation submitted by it to the Secretary and of any such percentages made effective by the Secretary. Such notice of the percentages made effective by the Secretary shall include, but not be limited to, written notice by registered mail to all handlers of whom the committee has a record.

(b) *Salable tonnage.* The salable tonnage of prunes of a handler shall be the sum of the salable tonnage portions of the prunes delivered to the handler by individual producers and dehydrators. The salable tonnage portion of prunes delivered to the handler by an individual producer or dehydrator shall be the tonnage resulting from the application of the salable percentage to the quantity of prunes (including standard and substandard prunes) so delivered, plus any tonnage of standard prunes delivered by such producer or dehydrator to the handler and covered by a diversion certificate; however, if the salable tonnage portion so computed exceeds the quantity of standard prunes delivered to the handler by the individual producer or dehydrator, it shall be reduced to the quantity of standard prunes so delivered. The handler may sell such salable tonnage in any manner he deems advisable subject to the applicable requirements specified in § 993.4. No handler shall handle any quantity of prunes in excess of his salable tonnage, except such prunes as may be obtained from surplus tonnage as specified herein, and except as provided in subparagraph (7) of paragraph (c) of this section. In no event, however, shall a handler be prevented from handling salable tonnage acquired by him from another handler who has received such tonnage from producers, dehydrators, or other handlers in accordance with all the provisions hereof.

(c) *Surplus tonnage—(1) Computation.* The surplus tonnage of prunes of a handler shall be the sum of the surplus tonnage portions of the prunes delivered to the handler by individual producers and dehydrators. The surplus tonnage portion of prunes delivered to the handler by an individual producer or dehy-

drator shall be the tonnage resulting from the application of the surplus percentage to the quantity of prunes (including standard and substandard prunes) so delivered, less any tonnage of standard prunes delivered by such producer or dehydrator to the handler and covered by a diversion certificate; however, if the surplus tonnage portion so computed is less than the quantity of substandard prunes delivered to the handler by the individual producer or dehydrator, it shall be increased to the quantity of substandard prunes so delivered. The committee shall authorize and permit a nonprofit cooperative agricultural marketing association, which has contractual authority to so pool the tonnage of its members, to concentrate the tonnage of its producer members before applying the surplus tonnage provisions hereof.

(2) *Holding and delivery.* Each handler shall hold for the committee in proper storage, all surplus tonnage received by him until relieved of such obligation by the committee. The committee may, at any time, require a handler to deliver to it, or to anyone designated by it, at such handler's warehouse or at such other place as the prunes may be stored by the handler, surplus tonnage held by him. The committee may require that such delivery consist of natural condition prunes or it may arrange for such delivery to consist of processed prunes.

(3) *Substandard surplus prunes.* Substandard prunes, except defective prunes referred to in subdivision (ii) of subparagraph (5) of paragraph (b) of § 993.4, shall be held separate from other prunes held by any handler. The committee shall dispose of substandard prunes as expeditiously as it is practicable to do so, in any manner designated by the committee which is not contrary to any provisions hereof for the disposition of substandard prunes.

(4) *Storage facilities.* The committee may rent and operate, or arrange for the use of, facilities for storage and handling of surplus tonnage.

(5) *Exchange.* The committee may establish methods and procedures, including compensating payments, for the exchange by handlers of salable tonnage prunes for surplus standard prunes held by or for the committee, of the various grades and sizes of prunes: *Provided, however,* That no such exchange shall be permitted of substandard prunes. Such transfers shall be on a negotiated basis.

(6) *Payment for services.* Handlers shall be paid for necessary services rendered by them in connection with surplus tonnage, including, but not limited to, receiving, storing, grading, and fumigating, in accordance with a schedule of payments established by the committee and approved by the Secretary. If any handler, prior to December 1 of the crop year, demands removal of such surplus tonnage by the committee, such handler automatically waives payment for any and all charges that may have accrued for storing such surplus tonnage, including in and out charges. When any demand for removal is made, the committee shall remove such surplus tonnage from said handler's possession as expeditiously

as practicable, and in any event within 30 days following receipt of written notice.

(7) *Deferment of obligation.* The committee may defer, upon the written request of any handler and for good and sufficient cause, the fulfilling by such handler of his surplus tonnage obligation for a specified period ending not later than November 15 of the then current crop year: *Provided*, That no handler shall dispose of any tonnage of standard prunes during such deferment period in excess of the tonnage he is authorized to handle as specified in paragraph (b) of this section plus the tonnage for which such handler holds purchase contracts with producers and dehydrators. As a condition to the granting of any such deferment, the committee shall require the handler to obtain and file with it a written undertaking that by the end of the deferment period he will have fully satisfied his obligation with respect to the holding or control by him of the surplus tonnage applicable to his receipts of prunes from producers and dehydrators. Such undertaking shall be secured by a bond or bonds to be filed with, and acceptable to, the committee, with surety or sureties satisfactory to the committee, running in favor of the committee and the Secretary, and for an amount computed on the basis of the then current market value of the prunes in the quantity for which the deferment is granted. The cost of such bond shall be borne by the handler filing same. Any sums collected through default of a handler on his bond shall, after reimbursement of the committee for any expenses incurred by it in effecting collection, be deposited with the funds obtained by it from the disposition of the surplus tonnage and disbursed by it to persons as set forth in subdivision (ii) of subparagraph (2) of paragraph (e) of this section. In addition to the foregoing, the committee may establish other reasonable terms and conditions upon which such deferments may be granted.

(d) *Diversion privileges.* The word "prunes" as used in this paragraph (d) means plums of a variety used in the production of prunes. No producer shall be required to divert all or any portion of these prunes. Any producer may, if he chooses, participate hereunder to the extent set forth herein, by diverting all or a portion of his production of prunes to nonhuman uses or may divert such prunes by leaving them unharvested, or may divert them to such other uses as may be approved by the committee, subject to the following terms and conditions:

(1) The producer shall first make application in writing to the committee for permission to divert prunes, disclosing in such application whether such prunes are to be diverted to nonhuman use, whether they are to be left unharvested, or to what other use they are to be diverted, and describing in detail the location of such prunes or portion thereof.

(2) If the committee approves such application, it shall estimate the amount of the production to be so diverted, on a dried weight basis, and shall advise the applicant, in writing, of its estimate of such dried production and of its ap-

proval of the application to divert, subject to satisfactory proof by the applicant that such prunes have actually been diverted as stated in his application.

(3) After receipt by the committee of satisfactory proof of such diversion, the committee shall issue to the applicant and made out in his name, a certificate of salable tonnage or diversion certificate for the dried weight of such prunes equal to the salable percentage as applied to the estimated dried production.

(4) Such diversion certificate shall not be transferable to another producer, or a handler, or any other person, except with the approval of the committee, evidenced by its endorsement of approval on the certificate.

(5) A certificate of salable tonnage or diversion certificate, so issued, shall entitle a producer to deliver to a handler, and a handler to receive, the specified dried weight of prunes free from all surplus set aside requirements in addition to the portion of all of such producer's delivery which would otherwise constitute salable tonnage, and shall entitle a handler, upon presentation of such certificate to the committee to satisfy his surplus tonnage requirements to the extent of the dried weight of prunes specified in such certificate.

(6) Any producer who diverts prunes pursuant to the provisions hereof and any other holder of diversion certificate, shall not be entitled to participate in the proceeds of the surplus tonnage for any prunes so diverted.

(7) Prior to the delivery of the diversion certificate to the producer, he shall pay to the committee the reasonable expense assessed by the committee for examining, estimating, weighing, or otherwise supervising the diversion.

(e) *Disposition of surplus tonnage—*
(1) *Purposes for which disposition may be made—*(i) *Sales to United States Government.* The committee is authorized to sell direct, or to sell to handlers for resale, surplus tonnage to the United States Government or to any agency thereof, including, but not limited to, sales for domestic or foreign relief purposes, school lunch and institutional feeding, or for foreign economic assistance. Such sales may be at negotiated prices with adequate consideration to probable processing costs.

(ii) *Sales for export.* In the event it appears that the total salable tonnage is not sufficient to meet the estimated domestic and foreign requirements due to the development or expansion of foreign markets to a greater extent than was anticipated at the time of estimating the salable percentage, the committee may offer to sell, and sell, surplus standard prunes to handlers for sale into, and for use in, such foreign channels in such quantities as are necessary to meet the increased demand. The quantity of prunes included in any offer to sell to individual handlers shall be in the proportion that the respective handler's sales in foreign channels bears to sales in such channels by all handlers.

In addition, the committee may offer to sell, and sell, to any handler, a quantity of surplus prunes for export to any foreign country, which country was not included in the estimate upon which the

salable percentage was based, in the event of proof of demand for such quantity for such country. Such sale may be made at a negotiated price. The committee shall require proof that any standard prunes so sold were used for the purpose for which they were sold.

The committee shall file with the Secretary, by telegram or air mail letter, seven calendar days prior to making any offer to sell under either of the foregoing situations, surplus standard prunes pursuant to this subdivision, complete information with respect thereto, including the basis for such proposal. The Secretary shall have the right to disapprove, within such seven-day period, the making of such an offer or any term or condition thereof.

(iii) *Sales for animal feed.* The committee may sell any surplus prunes for animal feed at negotiated prices, and it shall supervise such disposition to insure such use.

(iv) *Sales to handlers.* Exclusive of sales made by the committee to handlers for resale to Government agencies, for export and for manufacturing pursuant to this paragraph, if the committee finds that total contracted sales by all handlers during the crop year exceeds 80 percent of the total salable tonnage received by all handlers plus 80 percent of the estimated tonnage held unsold by producers and dehydrators which would become salable tonnage; or if the committee finds that more than 20 percent of the uncontracted salable tonnage is being held so tightly by relatively few handlers, dehydrators, or producers as seriously to restrict commerce in prunes and if 75 percent of all handlers have made a written request therefor and such requesting handlers have purchased over 65 percent of the salable tonnage purchased from producers and dehydrators to that date, the committee may, in either event, sell to handlers standard prunes from the surplus tonnage for use as salable tonnage, subject to the following conditions:

(a) No such sale shall be made prior to December 15;

(b) No single sales offer of surplus tonnage to handlers shall exceed 20 percent of the original estimated salable tonnage;

(c) Except where otherwise specifically provided, sales of surplus standard prunes to handlers, as provided in this paragraph, shall not be made by the committee at a price below that which reflects the average price received by producers for salable tonnage during the then current season to a date as near as practicable to the date of the offer plus accrued charges for receiving and storing of surplus tonnage as shown by the reports required to be filed under the provisions of § 993.6;

(d) Except for such sales as are provided for in subdivisions (ii) and (v) of this subparagraph, in any offer by the committee to sell surplus tonnage to handlers, each handler shall be given the first opportunity to purchase his share of the offer, which share shall be determined as the same proportion that the respective surplus tonnage held by him is of the surplus tonnage held by all handlers: *Provided*, That any surplus

tonnage for which a deferment has been granted to a handler pursuant to subparagraph (7) of paragraph (c) of this section shall be included in his holdings of the respective surplus tonnage in determining his share. In the event that any handler declines or fails to purchase any or all of his share of any such offer, the remaining portion thereof shall be reoffered by the committee to all handlers who purchased all of their respective shares of such offer, in proportion to their respective shares. Any balance remaining unsold after such reoffer shall be withdrawn from the particular offer. Any offer outstanding as of July 5 of any crop year shall be withdrawn and the committee shall not make any further offer to sell surplus tonnage to handlers after that date, except that if the committee determines, with the approval of the Secretary, that a major change in conditions has occurred, such as the involvement of the United States in war or a crop failure in the following year, or any other significant development, which indicates a shortage of supply, the said July 5 limitation shall no longer apply; and

(e) The committee shall file with the Secretary, by telegram or air mail letter, seven calendar days prior to making any offer to sell surplus prunes pursuant to this subdivision, complete information with respect thereto, including the basis therefor. The Secretary shall have the right to disapprove, within such seven day period, the making of such an offer or any term or condition thereof.

(v) *Sales of standard prunes for manufacturing purposes.* In the event it appears that the total salable tonnage is not sufficient to meet the estimated domestic and foreign requirements due to the development or expansion of manufacturing outlets to a greater extent than was anticipated at the time of estimating the salable percentage, the committee may offer to sell, and sell, surplus standard prunes to handlers for resale or use for manufacturing purposes, in which such prunes will lose their form and character as prunes by conversion prior to consumption, in such quantities as are necessary to meet the increased demand. The quantity of prunes offered to individual handlers to meet such deficiency shall be in the proportion that the respective handler's sales or uses for manufacturing bears to sales or uses for manufacturing by all handlers.

In addition, the committee may offer to sell, and sell to any handler, a quantity of surplus standard prunes for any manufacturing purpose, which purpose was not included in the estimate upon which the salable percentage was based, in the event of proof of demand for such quantity for such purpose. Such sale may be made at a negotiated price. The committee shall require proof that any standard prunes so sold were used for the purpose for which they were sold.

The committee shall file with the Secretary, by telegram or air mail letter seven calendar days prior to making any offer to sell under either of the foregoing situations, surplus standard prunes to handlers pursuant to this subdivision, complete information with respect thereto including the basis for such pro-

posal. The Secretary shall have the right to disapprove, within such seven day period, the making of such offer or any term or condition thereof.

(vi) *Sales of substandard prunes for manufacturing purposes.* The committees may sell direct, or sell to handlers for resale, substandard prunes for manufacturing purposes, in which such prunes will lose their form and character as prunes by conversion prior to consumption: *Provided*, That no such sale shall be made while standard prunes are available in the surplus tonnage: *And provided, further*, That such sales shall be made in such manner as will insure such use.

(vii) *Donations of surplus prunes.* The committee may donate limited quantities of surplus prunes for use in research or promotional activities.

(viii) *Unsold surplus tonnage.* The committee shall endeavor to sell all prunes in the surplus tonnage at a rate so as to achieve, as nearly as may be practicable, the complete disposition of the surplus tonnage not later than July 31 of the crop year. Any surplus tonnage remaining unsold as of July 31 shall be disposed of as soon as practicable for animal feed, distillation, or in any other outlets which are not competitive with the sale of prunes in normal marketing channels, not otherwise provided for in this paragraph, unless determination with respect to a shortage of supply has been made as provided for in subdivision (iv) (d) of this subparagraph. The committee may dispose of unsold surplus prunes after July 31 at negotiated prices.

(2) *Proceeds of sales of surplus tonnage—(i) Charges against proceeds.* Direct expenses incurred by the committee in the maintenance and disposition of the surplus tonnage shall be charged against the proceeds of sales of the surplus tonnage.

(ii) *Distribution of net proceeds.* Net proceeds from the disposition of surplus tonnage shall be distributed by the committee either directly, or through handlers as agents of the committee, under safeguards to be established by the committee, to persons in proportion to their contributions thereto, or to assignees of such interests, with appropriate grade and size differentials as established by the committee. Progress payments may be made by the committee in the same manner, as sufficient funds accumulate. Distribution of the proceeds in connection with the surplus tonnage contributed by a nonprofit cooperative agricultural marketing association which has authority to market the prunes of its members and to allocate the proceeds therefrom to such members shall be made to such association, if it so requests. Prior to making any such distribution, the committee shall submit to the Secretary a report including all pertinent details with respect thereto.

(3) *Prohibition against the hypothecation of surplus.* In no event shall the committee hypothecate surplus tonnage.

§ 993.6 *Reports and books and other records—(a) Confidential information.* All reports and records furnished or submitted by handlers to the committee which include data or information con-

stituting a trade secret or disclosing of the trade position, financial condition, or business operations of the particular handler from whom received shall be received by, and at all times kept in the custody and under the control of one or more employees of the committee, who shall disclose such information to no person except the Secretary. Notwithstanding the above provisions of this paragraph, information may be disclosed to the committee when reasonably necessary to enable the committee to carry out its functions hereunder.

(b) *Reports of acquisitions, sales, uses, and shipments.* Each handler shall file such reports of his acquisitions, sales, uses, and shipments of prunes, as may be requested by the committee.

(c) *Reports of prices.* Each handler shall file such price reports as may be requested by the committee, showing the weighted average price paid by such handler to producers and dehydrators for each size of prunes and the quantity purchased at each such price, to enable the committee to determine the average price received by producers for the purposes set forth in § 993.5 (e) (1) (iv) (c).

(d) *Reports of surplus tonnage.* Each handler shall file with the committee such reports of the total substandard prunes and other surplus tonnage by grade and size classifications thereof, held in his warehouses or under his control and the location thereof, as may be requested by the committee.

(e) *Other reports.* Upon the request of the committee, each handler shall furnish such other reports and information as are needed to enable the committee to perform its functions hereunder.

(f) *Records.* Each handler shall maintain such records of prunes received, held, and disposed of by him as are prescribed by the committee and needed by it to perform its functions hereunder.

(g) *Verification of reports.* For the purpose of checking and verifying reports filed by handlers or the operation of handlers under the provisions hereof, the committee, through its duly authorized agents, shall have access to any premises where prunes may be held by any handler and at any time during reasonable business hours, shall be permitted to inspect any prunes so held by such handler and any and all records of such handler with respect to the holding or disposition of all prunes which may be held or which may have been disposed of by him.

§ 993.7 *Expenses and assessments—*

(a) *Expenses.* The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each crop year for the maintenance and functioning of the committee and for such other purposes as the Secretary may, pursuant to the provisions hereof, determine to be appropriate. The recommendation of the committee as to these expenses and the recommended rate of assessment for each such crop year, together with all data supporting such recommendations, shall be filed with the Secretary not later than June 20 preceding the crop year in connection with which such recommendations are made: *Provided*, That,

with respect to the initial crop year hereunder the committee shall file such recommendations and supporting data with the Secretary as soon as practicable after the effective date hereof.

(b) *Assessments*—(1) *Requirement for payment and rate of assessment.* The funds to cover the expenses of the committee (exclusive of direct expenses for the maintenance and disposition of the surplus tonnage) shall be acquired by levying assessments. Each handler shall pay to the committee, upon demand, with respect to all salable tonnage prunes handled by him as the first handler thereof and on all prunes sold to him from surplus tonnage for resale to other than Federal governmental agencies, his pro rata share of such expenses which the Secretary finds will be incurred as aforesaid, by the committee during each crop year. Each handler's pro rata share of such expenses shall be equal to the ratio between the total salable tonnage handled by him as the first handler thereof plus the tonnage sold to him from surplus tonnage for resale to other than Federal governmental agencies, during the applicable crop year, and the total salable tonnage prunes handled by all handlers as the first handlers thereof plus tonnage sold to such handlers from surplus tonnage for resale to other than Federal governmental agencies, during the same crop year. The Secretary shall fix the rate of assessment to be paid by such handlers on the basis of a specified rate per ton. At any time during or after a crop year the Secretary may increase the rate of assessment to apply to all salable tonnage prunes handled by handlers as the first handlers thereof and on all tonnage sold to handlers from surplus tonnage for resale to others than Federal governmental agencies during such crop year to obtain sufficient funds to cover any finding by the Secretary relative to the expenses of the committee. Each handler shall pay such additional assessment to the committee upon demand. The Secretary shall reduce the assessment rate applicable to all such tonnage during the particular crop year if he finds that when thus reduced it will provide funds sufficient to enable the committee properly to perform its functions hereunder.

(2) *Advance payments.* In order to provide funds to carry out the functions of the committee, the committee may accept advance payments from any handler to be credited toward such assessments as may be levied hereunder against the respective handler.

(3) *Disposition of excess funds from assessments.* If the first audit after the end of any crop year shows that the assessments collected for such crop year exceed the expenses incurred with respect to such crop year, the excess shall be credited to the handlers in proportion to their relative total assessments and the portion to which each handler is entitled shall be credited against his assessments in the following crop year, unless the handler shall request payment, in which event prompt payment shall be made.

(4) *Suits for collection.* The committee may, with the approval of the Secretary, maintain in its own name, or in the name of its members, a suit against any handler for the collection of such handler's assessment.

(c) *Funds.* All funds received by the committee pursuant to the provisions hereof shall be used solely for the purposes herein authorized and shall be accounted for in the manner herein provided. The Secretary may, at any time, require the committee or its members and alternate members to account for all receipts and disbursements.

§ 993.8 *Personal liability.* No member or alternate member of the committee, or any employee, representative, or agent thereof shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person, for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, employee, representative, or agent, except for acts of dishonesty.

§ 993.9 *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 993.10 *Derogation.* Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 993.11 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.

§ 993.12 *Agents*—(a) *Authorization by Secretary.* The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

(b) *Authorization by committee.* The committee may authorize any person or persons or agency to act as its agent or representative in connection with the provisions hereof.

§ 993.13 *Effective time, termination or suspension*—(a) *Effective time.* The provisions hereof, as well as any amendments hereto, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated, or during suspension, in one of the ways hereinafter specified.

(b) *Termination or suspension*—(1) *Failure to effectuate policy of act.* The Secretary may, at any time, terminate the provisions hereof by giving at least one day's notice by means of a press

release or in any other manner which he may determine. The Secretary shall terminate or suspend the operation of any or all of the provisions hereof, whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(2) *Referendum.* The Secretary shall terminate the provisions hereof on or before the fifteenth day of July of any crop year, to be effective at the end of such crop year, whenever he is required to do so by the provisions of section 8c (16) (B) of the act. The Secretary may, at any time he deems it desirable, hold a referendum of producers to determine whether they favor termination hereof. However, beginning with 1951, if the Secretary receives a recommendation, adopted by at least a majority vote of the producer members of the committee, requesting the holding of such a referendum, the Secretary shall hold such a referendum: *Provided*, That the Secretary shall not be required to hold such a referendum upon the basis of such a request more than once every two years.

(3) *Termination of act.* The provisions hereof shall terminate, in any event, upon the termination of the act.

(c) *Procedure upon termination.* Upon the termination hereof, the members of the committee then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the committee. Action by such trustees shall require the concurrence of a majority of the said trustees. Such trustees shall continue in such capacity until discharged by the Secretary, and shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all the funds, properties, and claims vested in the committee or the joint trustees, pursuant hereto. Any person to whom funds, property, or claims have been transferred or delivered by the committee or the joint trustees, pursuant to this section, shall be subject to the same obligations imposed upon the members of the said committee and upon said joint trustees.

§ 993.14 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision hereof or any regulation issued hereunder, or (b) release or extinguish any violation hereof or any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary, or of any other person, with respect to such violation.

§ 993.15 *Amendments.* Amendments hereto may be proposed from time to time, by any person or by the committee, and may be made a part hereof by the procedures provided under the act.

EXHIBIT A

I. Minimum standards for natural condition prunes:

A. *Defects.* Defects are: (1) off-color; (2) inferior meat condition; (3) fermentation; (4) skin or flesh damage; (5) scab; (6) burned; (7) mold; (8) imbedded dirt; (9) insect infestation; (10) decay.

B. *Explanation of terms.* (1) "Off-color" means a dull color or skin differing noticeably in appearance from that which is characteristic of mature, properly handled fruit of a given variety or type.

(2) "Inferior meat condition" means flesh which is fibrous, woody or otherwise inferior due to immaturity to the extent that the characteristic texture of the meat is substantially affected.

(3) "Fermentation" means damage to the flesh by fermentation to the extent that the characteristic appearance or flavor is substantially affected.

(4) "Skin or flesh damage" means growth cracks, splits, breaks in skin or flesh of the following descriptions:

(a) Callous growth cracks, aggregating more than three-eighths of one inch ($\frac{3}{8}$ "') in length;

(b) Splits or skin breaks exposing flesh and affecting materially the normal appearance of the prunes;

(c) Any cracks, splits or breaks open to the pit;

(d) Healed or unhealed surface or flesh blemishes caused by insect injury and which materially affect appearance, edibility or keeping quality.

(e) Skin damage caused by rain or over-dipping to the extent that the prunes cannot be processed normally without material sloughing of the skin.

(5) "Scab" means tough or thick scab exceeding in the aggregate the area of a circle three-eighths inch ($\frac{3}{8}$ "') in diameter or by unsightly scab of another character exceeding in the aggregate the area of a circle three-fourths inch ($\frac{3}{4}$ "') in diameter.

(6) "Burned" means injury by sunburn or excessive heat in dehydration to the extent that the characteristic appearance, flavor or edibility of the fruit is noticeably affected.

(7) "Mold" means a characteristic fungus growth and is self-explanatory.

(8) "Imbedded dirt" means the presence of dirt or other extraneous material so imbedded in or adhering to the prune that it cannot be removed in normal processing.

(9) "Insect infestation" means the presence of insects, insect fragments or insect remains.

C. *Maximum tolerances.* Tolerance allowances shall be on a weight basis and shall not exceed the following:

(1) The tolerance allowance for decay shall not exceed one percent (1%).

(2) The combined tolerance allowance for mold, imbedded dirt, insect infestation, and decay shall not exceed five percent (5%).

(3) The combined tolerance allowance for fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed ten percent (10%).

(4) The combined tolerance for off-color, inferior meat condition, fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed twenty percent (20%).

(5) Prunes showing obvious live insect infestation shall be fumigated prior to acceptance.

D. Natural condition prunes must be properly dried and cured in original natural condition, without the addition of water, and free from active infestation, so that they are capable of being received, stored and packed without deterioration or spoilage.

II. Minimum standards for processed prunes:

A. *Defects.* Defects are: (1) Off-color; (2) Inferior meat conditions; (3) Fermentation; (4) Skin or flesh damage; (5) Scab; (6) Burned; (7) Mold; (8) Imbedded dirt; (9) Insect infestation; (10) Decay.

B. *Explanation of terms.* (1) "Off-color" means a dull color or skin differing noticeably in appearance from that which is characteristic of mature, properly handled fruit of a given variety or type.

(2) "Inferior meat condition" means flesh which is fibrous, woody or otherwise inferior due to immaturity to the extent that the characteristic texture of the meat is substantially affected.

(3) "Fermentation" means damage to the flesh by fermentation to the extent that the characteristic appearance or flavor is substantially affected.

(4) "Skin or flesh damage" means growth cracks, splits, breaks in skin or flesh of the following descriptions:

(a) Callous growth cracks, aggregating more than three-eighths of one inch ($\frac{3}{8}$ "') in length;

(b) Splits or skin breaks exposing flesh and materially affecting the normal appearance of French prunes; or markedly affecting the normal appearance of varieties other than the French variety;

(c) Any cracks, splits or breaks open to the pit;

(d) Healed or unhealed surface or flesh blemishes caused by insect injury and which materially affect the appearance, edibility or keeping quality.

(5) "Scab" means tough or thick scab exceeding in the aggregate the area of a circle three-eighths of one inch ($\frac{3}{8}$ "') in diameter, or by unsightly scab of other character exceeding in the aggregate the area of a circle three-fourths of one inch ($\frac{3}{4}$ "') in diameter.

(6) "Burned" means injury by sunburn or excessive heat in dehydration to the extent that the characteristic appearance, flavor or edibility of the fruit is noticeably affected.

(7) "Mold" means a characteristic fungus growth and is self-explanatory.

(8) "Imbedded dirt" means the presence of dirt or other extraneous material so imbedded in or adhering to the prune that it cannot be readily removed in washing the fruit.

(9) "Insect infestation" means the presence of insects, insect fragments or insect remains.

C. *Maximum tolerances.* Tolerance allowances shall be on a weight basis and shall not exceed the following:

(1) There shall be no tolerance allowance for live insect infestation.

(2) The tolerance allowance for decay shall not exceed one percent (1%).

(3) The combined tolerance allowance for mold, imbedded dirt, insect infestation, and decay shall not exceed five percent (5%).

(4) The combined tolerance allowance for fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed ten percent (10%).

(5) The combined tolerance for off-color, inferior meat condition, fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed twenty percent (20%).

[F. R. Doc. 49-6140; Filed, July 26, 1949; 8:50 a. m.]

[7 CFR, Part 993]

HANDLING OF DRIED PRUNES PRODUCED IN CALIFORNIA

ORDER DIRECTING THAT REFERENDUM BE CONDUCTED AMONG PRODUCERS OF PRUNE PLUMS IN THE STATE OF CALIFORNIA FOR DRYING OR DEHYDRATING INTO DRIED PRUNES IN SAID STATE; DESIGNATING AGENTS TO CONDUCT SUCH REFERENDUM; AND DETERMINING THE REPRESENTATIVE PERIOD.

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), it is hereby directed that a referendum be conducted among the producers who, during the period July 1, 1948, through June 30, 1949 (which period is hereby determined to be the representative period for the purpose of this referendum), were engaged, in the State of California, in the growing of prune plums for the production, for market, of dried prunes to determine whether such producers of prune plums favor the issuance of a proposed order regulating the handling of dried prunes produced in this State.

The following employees of the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture are hereby designated as agents of the Secretary of Agriculture to perform, jointly or severally, under the direction and supervision of the Director of the Fruit and Vegetable Branch, the functions in connection with the referendum: R. M. Walker, Chief, and W. Allmendinger and Harold Brogger, Western Marketing Field Office, 2180 Milvia Street, Farm Credit Building, Berkeley, California; E. M. Graham, Chief, and G. R. Eastman and M. G. Young, Dried Fruit Division, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Room 2523, South Agricultural Building, Washington, D. C.

Said functions shall be as follows:

(a) Conduct said referendum in the manner herein prescribed.

(1) Each of the aforesaid producers shall be given an opportunity to cast his ballot relative to issuance of the aforesaid order. To that end the agents shall:

(i) Give notice of the referendum through available agencies of public information (without advertising expense), including both press and radio facilities in the State of California, announcing the dates, methods of voting, places at which ballots will be available and may be obtained by producers not receiving ballots by mail, eligibility requirements, and other information at the discretion of said agents; (ii) mail a ballot form with instructions for voting, and a copy of the regulatory provisions of the proposed order to each producer whose name and address is known; (iii) make available and arrange for producers to obtain ballot forms with instructions for voting, and a copy of the regulatory provisions of the proposed order at the offices of the county agricultural conservation associations in each of the counties in the State

of California; and (iv) adopt additional or other means as said agents may deem advisable to insure that all eligible producers have an opportunity to vote in the referendum.

(2) The agents shall ascertain and record: (i) The eligibility of each voter; (ii) the name and address of each person voting; and (iii) such other information or data as the agents may find desirable for the efficient performance of their duties.

For the purpose of this referendum, a producer shall be any person engaged, in a proprietary capacity, in growing prune plums for drying or dehydrating into dried prunes in the State of California at the time of the referendum and who was also so engaged during the representative period. In case two or more producers had a proprietary interest in the same production of dried prunes, each shall be entitled to one vote and each shall report his share, expressed in tons, of said prunes. No producer shall be entitled to more than one vote. A cooperative association of producers engaged in marketing dried prunes produced in the State of California, or rendering services for or advancing the interests of the producers, may vote for the producers who are members of, stockholders in, or under contract with, such cooperative association (such vote to be cast on the appropriate ballot form) and the vote of such cooperative association shall be considered as the vote of such producers.

(3) To accomplish the duties assigned to the named agents, they are authorized to appoint as subagents, the Chairman of the California Production and Mar-

keting Administration Committee, any member or members of a county agricultural conservation association committee in the State of California, or any employee of the Fruit and Vegetable Branch, Production and Marketing Administration. Any other person or persons may be appointed if any agent deems it advisable.

Each person so appointed shall serve without compensation and may be authorized, by the said referendum agents or any of them, to perform any or all of the functions set forth in paragraphs (1) and (2) hereof (which, in the event no subagents are appointed, shall be performed by said referendum agents) in accordance with the requirements herein set forth.

(b) Report the result of the balloting as directed herein:

(1) Upon receipt by the designated agents of all ballots cast, such ballots shall be examined and tabulated by them or any one of them.

(2) When the examination and tabulation of the ballots have been completed, the following shall be forwarded to the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C.: (i) the results of the referendum (exclusive of any challenged ballots), together with all the ballots cast, including challenged ballots; (ii) a certificate to the effect that the ballots forwarded were all the ballots cast which were received by the agent or agents; (iii) a register of the names and addresses of the producers to whom ballot forms were mailed which

shall indicate those producers voting, how each voted, and the production of each so reported on the ballot; and (iv) a register of the names and addresses of producers who obtained ballots through other means than mail, which shall also indicate those producers who voted, how each voted, and the production of each as reported on the ballot.

(c) Each referendum agent and subagent pursuant hereto shall not refuse to accept a ballot submitted or cast; but should they, or any of them, deem that a ballot should be challenged for any reason, or if such ballot is challenged by any other person, said agent or subagent shall endorse above his signature on the back of said ballot, a statement that such ballot was challenged, by whom challenged, and the reasons therefor; and the number of such challenged ballots shall be stated when they are forwarded as provided herein.

(d) All ballots shall be treated as confidential.

The Director of the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, is hereby authorized to prescribe additional instructions not inconsistent with the provisions hereof, to govern the procedure to be followed by the said referendum agents and appointees in conducting said referendum.

Done at Washington, D. C., this 22d day of July 1949.

[SEAL]

CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-6141; Filed, July 26, 1949; 8:50 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

United States Coast Guard

[CGFR 49-28]

APPROVAL OF EQUIPMENT

By virtue of the authority vested in me as Commandant, United States Coast Guard, by R. S. 4405 and 4491, as amended; 46 U. S. C. 375, 489; and section 101 of Reorganization Plan No. 3 of 1946 (11 F. R. 7875, 60 Stat. 1097, 46 U. S. C. 1), as well as the additional authorities cited with specific items below, the following approvals of equipment are prescribed and shall be effective for a period of five years from date of publication in the FEDERAL REGISTER unless sooner canceled or suspended by proper authority:

LIFE PRESERVERS, CORK (JACKET TYPE)

Approval No. A-350, Model 31, adult cork life preserver, U. S. C. G. Specification 160.003, manufactured by The American Pad and Textile Co., Greenfield, Ohio.

Approval No. A-351, Model 35, child cork life preserver, U. S. C. G. Specification 160.003, manufactured by The

American Pad and Textile Co., Greenfield, Ohio.

(R. S. 4417a, 4426, 4488, 4492, 35 Stat. 428, 49 Stat. 1544, 54 Stat. 164, 166, 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 396, 404, 481, 490, 526e, 526p, 1333, 50 U. S. C. 1275, 46 CFR 25.4-1, 33.6-1, 59.55, 76.52, 94.52, 113.44)

CLEANING PROCESSES FOR LIFE PRESERVERS

NOTE: Where buoyancy fillers are not removed from envelope covers during cleaning process.

Approval No. 160.006/18/0, Dix Cleaning Process for kapok life preservers as outlined in letter of June 17, 1949, from Dix Dry Cleaning, 766-70 Thirty-ninth Street, Brooklyn 32, N. Y.

(R. S. 4417a, 4426, 4488, 4492, 35 Stat. 428, 49 Stat. 1544, 54 Stat. 164, 166, 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 396, 404, 481, 490, 526e, 526p, 1333, 50 U. S. C. 1275; 46 CFR 160.006-4)

BUOYANT CUSHIONS, KAPOK, STANDARD

NOTE: Cushions are for use on motorboats of classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.007/83/0, Standard kapok buoyant cushion, U. S. C. G. Spec-

ification 160.007, manufactured by O'Keefe's Auto Top Shop, 6217 Baltimore Avenue, Yeadon, Pa.

Approval No. 160.007/84/0, Standard kapok buoyant cushion, U. S. C. G. Specification 160.007, manufactured by Marietta Cushion Co., Marietta, Ga.

Approval No. 160.007/85/0, Standard kapok buoyant cushion, U. S. C. G. Specification 160.007, manufactured by A. L. Robertson Co., Inc., 113 Gay Street, Baltimore, Md.

(54 Stat. 164, 166; 46 U. S. C. 526e, 526p; 46 CFR 25.4-1, 160.007)

WINCHES, LIFEBOAT

Approval No. 160.015/52/0, Type B-152 Lifeboat winch, approved for maximum working load of 11,100 pounds pull at the drums (5,550 pounds per fall) for use on S. S. "Cape Cod" only; identified by arrangement Dwg. 3293, dated June 14, 1949, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J.

(R. S. 4417a, 4426, 4488, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 404, 481, 1333, 50 U. S. C. 1275; 46 CFR 37.1-5, 59.3a, 60.21, 76.15a, 94.14a)

DAVITS, LIFEBOAT

Approval No. 160.032/110/0, Gravity Davit, Type LO-110, approved for a maximum working load of 22,000 pounds per set (11,000 pounds per arm) using 2 part falls, identified by General Arrangement Dwg. No. 3160-6, dated May 25, 1948, and revised June 21, 1949, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J.

(R. S. 4417a, 4426, 4481, 4488, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 404, 474, 481, 1333, 50 U. S. C. 1275; 46 CFR 37.1-4, 59.3, 60.21, 76.15, 94.14, 113.23)

LIFEBOATS

Approval No. 160.035/246/0, 22' x 6.5' x 2.67' steel oar-propelled lifeboat, 23-person capacity, identified by construction and arrangement Dwg. 22-3, dated April 12, 1949, and revised June 16, 1949, manufactured by Marine Safety Equipment Corp., Point Pleasant, N. J.

(R. S. 4417a, 4426, 4481, 4488, 4492, 35 Stat. 428, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 396, 404, 474, 481, 490, 1333, 50 U. S. C. 1275; 46 CFR 37.1-1, 59.13, 76.16, 94.15, 113.10)

AUTOMATIC FLOATING ELECTRIC WATER LIGHTS

Approval No. 161.001/2/0, Light (water) electric, floating, automatic (with bracket for mounting), Dwg. No. E-851, Alt. 2 (sheets 1 and 2), dated June 1, 1949, manufactured by C. C. Galbraith & Son, Inc., New York, N. Y.

(R. S. 4417a, 4426, 4488, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 404, 481, 1333, 50 U. S. C. 1275; 46 CFR 33.3-6, 33.3-8, 33.7-1, 37.9-1, 59.52, 59.54b, 59.56, 60.45, 60.47b, 60.49, 76.48, 76.48a, 76.48b, 76.53, 94.53, 113.46)

FIRE EXTINGUISHER, PORTABLE, HAND, SODA-ACID TYPE

Approval No. 162.007/26/0, Miller Peerless (Symbol GE) 2½-gallon soda-acid type hand portable fire extinguisher, Assembly Dwg. No. S-303-X, Redrawn July 2, 1947, No. Rev., Name plate Dwg. No. AS-303-14V, dated May 2, 1947, No. Rev., manufactured by the General Detroit Corp., Roosevelt Park Annex Station, Box 263, Detroit 32, Mich., for Miller Peerless Manufacturing Co., Chicago, Ill.

(R. S. 4417a, 4426, 4479, 4492, 49 Stat. 1544, 54 Stat. 165, 166, 346, 1028, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 404, 463a, 472, 490, 526g, 526p, 1333, 50 U. S. C. 1275; 46 CFR 25.5-1, 26.3-1, 27.3-1, 34.5-1, 61.13, 77.13, 95.13, 114.15)

RANGES, LIQUEFIED PETROLEUM GAS BURNING

Approval No. 162.020/14/0, Magic Chef Hot Plate Model No. 800, approved by the American Gas Association, Inc., under Certificate No. 14-2-3.001 and supplement to Certificate No. 14-2-2.001, Serial No. 1, for Liquefied Petroleum Gas

Service, manufactured by the American Stove Co., 4931 Daggett Avenue, St. Louis 10, Mo.

(R. S. 4417a, 4426, 49 Stat. 1544, 54 Stat. 1028, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 404, 463a, 1333, 50 U. S. C. 1275; 46 CFR 32.9-11, 61.25, 95.24, 114.25)

Dated: July 21, 1949.

[SEAL] J. F. FARLEY,
Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 49-6137; Filed, July 26, 1949;
8:49 a. m.]

[CGFR 49-29]

TERMINATION OF APPROVAL OF EQUIPMENT

By virtue of the authority vested in me as Commandant, United States Coast Guard, by R. S. 4405 and 4491, as amended, 46 U. S. C. 375, 489; and section 101 of Reorganization Plan No. 3 of 1946, 11 F. R. 7875, 60 Stat. 1097, 46 U. S. C. 1; as well as the additional authorities cited with specific items below, the following approvals of equipment are terminated because the items of equipment covered are no longer in compliance with marine engineering regulations as set forth in 46 CFR Parts 51 to 57, inclusive:

HEATING BOILERS

Termination of Approval No. 162.003/28/0, Type A, steel tubular heating boiler, 2-bank fire tube boiler, welded steel plate construction, oil or coal fired, in accordance with "Construction Details of Spencer Type A Boilers" dated March 6, 1942, Dwg. No. OA4-112A-1, dated September 9, 1936, and catalog dated March 7, 1941. (Approved in FEDERAL REGISTER July 31, 1947.)

Termination of Approval No. 162.003/29/0, Type C steel tubular heating boiler, 2-bank fire tube boiler, welded steel plate construction, oil or coal fired, in accordance with "Construction Details of Spencer Type C Boilers" dated March 6, 1942, Dwg. No. OC7-112-3 dated March 18, 1936, and catalog dated March 17, 1941. (Approved in FEDERAL REGISTER July 31, 1947.)

CONDITIONS OF TERMINATION OF APPROVALS

The termination of approvals of equipment made by this document shall be made effective upon the thirty-first day after the date of publication of this document in the FEDERAL REGISTER. Notwithstanding this termination of approval on any item of equipment, such equipment in service before the effective date of termination of approval may be used on merchant vessels so long as it is in good and serviceable condition.

Dated: July 21, 1949.

[SEAL] J. F. FARLEY,
Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 49-6138; Filed, July 26, 1949;
8:49 a. m.]

DEPARTMENT OF THE INTERIOR

Southwestern Power Administration

[General Order SPA 32]

DELEGATION OF AUTHORITY WITH RESPECT TO CONTRACTS

JULY 18, 1949.

SECTION 1. *Contracts: Construction, services, supplies, leases.* (a) Pursuant to sections 50 and 52 of the Secretary of the Interior's Order No. 2509 dated January 13, 1949, 14 F. R. 306, and subject to the provisions thereof, the following delegations of authority are granted for action with respect to contracts for construction, services, supplies, and lease agreements, requisite in performance of activities or functions of Southwestern Power Administration.

(b) Irrespective of the amount involved, the following officials of Southwestern Power Administration, namely, the Chief, Division of Administration and Personnel, the Assistant Chief, Division of Administration and Personnel, and the Chief, Property Branch, Division of Administration and Personnel, are severally authorized to enter into contracts for service or supplies, in conformity with applicable regulations and statutory requirements and subject to the availability of appropriations; excepting, however, contracts for the procurement of transformers, oil circuit breakers, or related supplies; but all contracts involving \$500, or more, which are entered into by any of said officials shall be subject to the written approval of the Administrator, Southwestern Power Administration, and shall not be binding until so approved.

(c) Irrespective of the amount involved, the following officials of Southwestern Power Administration, namely, the Chief, and the Assistant Chief, Division of Engineering, are severally authorized to enter into contracts for the construction of electric transmission lines, substations, and related facilities, and contracts for the procurement of transformers, oil circuit breakers, or related supplies, in conformity with applicable regulations and statutory requirements and subject to the availability of appropriations; but all contracts involving \$500, or more, which are entered into by either of said officials shall be subject to the written approval of the Administrator, Southwestern Power Administration, and shall not be binding until so approved.

(d) With respect to any such contract the contracting officer may issue change orders and extra work orders pursuant to the contract, enter into modifications of the contract which are legally permissible, and terminate the contract if such action is legally authorized; but approval of the Administrator, Southwestern Power Administration, shall be a condition precedent to the consummation of a change order involving an estimated increase or decrease of more than \$500, and likewise as to the consummation of an extra work order involving any amount in excess of \$500.

(e) With respect to contracts entered into on United States standard forms by

any of the officials authorized by paragraphs (b) and (c) of this section, the Administrator, Southwestern Power Administration, will act as the authorized representative of the Secretary of the Interior within the meaning of Articles 3 and 4 of Form No. 23 and Article 2 of Form No. 32, and, for the purpose of extending the time within which a contractor may notify a contracting officer of the causes of delay, Article 9 of Form No. 23, Article 5 of Form No. 32, and Condition 4 of Form No. 33.

(f) The following officials of Southwestern Power Administration, namely, the Chief, Division of Administration and Personnel, the Assistant Chief, Division of Administration and Personnel, the Chief, Property Branch, Division of Administration and Personnel, are severally authorized to lease space in real estate outside the District of Columbia, in conformity with applicable regulations and statutory requirements and subject to the availability of appropriations, and with respect to any such lease, may modify or renew the lease if such action is legally permissible, and may terminate the lease if such action is legally authorized; but all lease agreements involving annual rentals of \$500, or more, which are entered into by any of said officials shall be subject to the written approval of the Administrator, Southwestern Power Administration, and shall not be binding until so approved.

SEC. 2. *Previous orders superseded.* (a) This order supersedes General Order No. SPA 27, dated September 14, 1948, 13 F. R. 5527.

(b) Also, this order supersedes all other delegations made by the Administrator, Southwestern Power Administration, relating to the same subject matter.

SEC. 3. *Effective date.* This order shall be effective on and from the date of its publication in the FEDERAL REGISTER.

DOUGLAS G. WRIGHT,
Administrator,
Southwestern Power Administration.

[F. R. Doc. 49-6116; Filed, July 26, 1949;
8:50 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 9385]

BJARNE URSIN

ORDER DESIGNATING APPLICATION FOR
HEARING ON STATED ISSUES

In the matter of Bjarne Ursin, 20 Providence Street, Boston, Massachusetts, application for ship radiotelephone station.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 20th day of July 1949;

The Commission having under consideration the application of Bjarne Ursin, 20 Providence Street, Boston, Massachusetts, for a ship radiotelephone license covering equipment with a maximum power of ten watts, in the frequency band 2000 kc. to 3500 kc.,

aboard the 35-foot motor cruiser "Haviruen"; and

It appearing, that the above-mentioned application shows that the applicant is an "Honorary Consul for Norway" which raises a question as to his legal qualifications to be granted or to hold a ship radiotelephone station license under the provisions of section 310 (a) (2) of the Communications Act of 1934, as amended; and

It further appearing, that applicant has requested a hearing in the matter of this application for the purpose of resolving the question of his legal qualifications to be granted or to hold the station license applied for.

It is ordered, That the application of Bjarne Ursin for a ship radiotelephone station license be designated for hearing before a Commission Examiner at 10:00 a. m., on the 29th day of August 1949, at the Commission's Offices in Washington, D. C., upon the following issues:

(1) To determine the relationship between Bjarne Ursin and the Government of Norway.

(2) To determine whether in view of the relationship, between Bjarne Ursin and the Government of Norway, he is ineligible under the provisions of section 310 (a) (2) of the Communications Act of 1934, as amended, to be granted or to hold a ship radiotelephone station license.

It is further ordered, That the applicant be furnished with duplicate copies of this order.

Notice is hereby given that § 1.857 of the Commission's rules and regulations is applicable to this proceeding.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-6126; Filed, July 26, 1949;
8:46 a. m.]

[Docket Nos. 8404, 9179]

GLENS FALLS PUBLICITY CORP. (WGLN)
AND RICHARD O'CONNOR

ORDER CONTINUING HEARING

In re applications of Glens Falls Publicity Corporation, (WGLN), Glens Falls, New York, Docket No. 8404, File No. BML-1247; Richard O'Connor, Saratoga Springs, New York, Docket No. 9179, File No. BP-6808; for construction permits.

The Commission having under consideration a motion filed on July 5, 1949, by the Glens Falls Publicity Corporation, Glens Falls, New York, requesting that the hearing now scheduled for July 11, 1949, at Washington, D. C., on the above-entitled applications for construction permits, be continued for a period of sixty days; and

It appearing, that all parties to the proceeding and the Commission's Counsel have consented to the continuance as requested and to a waiver of § 1.745 of the Commission's rules relating to the time for filing of motions;

It is ordered, This 8th day of July, 1949, that the motion be, and it is hereby, granted; and that the said hearing on

the above-entitled applications be, and it is hereby, continued to 10:00 a. m., Wednesday, September 14, 1949, at Washington, D. C.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] HUGH B. HUTCHISON,
Hearing Examiner.

[F. R. Doc. 49-6127; Filed, July 26, 1949;
8:46 a. m.]

[Docket No. 9212]

RADIO STATION KWBW

ORDER CONTINUING HEARING

In re application of William Wyse and Bess Wyse, a partnership d/b as Radio Station KWBW, Hutchinson, Kansas, for construction permit, Docket No. 9212, File No. BP-6999.

The Commission having under consideration the petition of the above applicant which prays for a continuance of the hearing upon its application now scheduled for July 21, 1949, and

It appearing, that there is pending before the Commission a petition for reconsideration and grant of such application without hearing, and

It appearing further, that there is no opposition to a grant of the continuance herein sought;

Now, therefore, it is ordered, This 15th day of July 1949, that the petition for continuance be, and it is hereby, granted; and that the hearing upon the above-entitled application, now scheduled for July 21, 1949, be, and it is hereby, continued indefinitely.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] JAMES D. CUNNINGHAM,
Hearing Examiner.

[F. R. Doc. 49-6128; Filed, July 26, 1949;
8:46 a. m.]

[Docket No. 9226]

WESTERN MASSACHUSETTS
BROADCASTING CO.

ORDER CONTINUING HEARING

In re application of Western Massachusetts Broadcasting Company, Great Barrington, Massachusetts, for construction permit, Docket No. 9226, File No. BP-6869.

The Commission having under consideration a petition filed July 6, 1949, by Western Massachusetts Broadcasting Company, applicant in the above-entitled proceeding, requesting that the hearing on said application, now scheduled to begin July 18, 1949, be continued for a period of three weeks to August 8, 1949, and a petition filed by the General Counsel of the Commission requesting an indefinite continuance of the hearing and opposing the petition for limited continuance of the hearing; and

It appearing that on January 26, 1949, the Commission designated the above-entitled application for hearing and by order dated April 6, 1949, directed that the hearing be held beginning July 18,

1949, that on June 15, 1949, the applicant filed a petition requesting the Commission to reconsider its action and grant the application without a hearing, that such petition for reconsideration and grant without a hearing is now pending and it is not now possible to predict with any reasonable degree of accuracy when said petition will be acted upon by the Commission, and, until such time as the Commission may act on said petition to reconsider and grant, the orderly administration of the Commission's business does not warrant setting the application for hearing on August 8, 1949, or on any specified date; and

It appearing that public interest, convenience and necessity will be served by granting the petitions herein involved insofar as each requests a continuance of the hearing now scheduled to begin July 18, 1949, and that it would not be in the public interest to grant the petition of Western Massachusetts Broadcasting Company insofar as said petition requests that the hearing to be continued until August 8, 1949;

It is ordered, This the 15th day of July 1949, that insofar as the petition of Western Massachusetts Broadcasting Company requests that the hearing on the above-entitled application be continued until August 8, 1949, it is denied, and insofar as both petitions request a continuance of the hearing, they are granted, and that the hearing now scheduled to begin July 18, 1949, in Washington, D. C., be continued indefinitely.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BASIL P. COOPER,
Hearing Examiner.

[F. R. Doc. 49-6129; Filed, July 26, 1949;
8:46 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6225]

HOLYOKE WATER POWER CO.

NOTICE OF APPLICATION

JULY 21, 1949.

Notice is hereby given that on July 19, 1949, an application was filed with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, by Holyoke Water Power Company, a corporation organized under the laws of the Commonwealth of Massachusetts and doing business in that Commonwealth, with its principal business office at Holyoke, Massachusetts, seeking an order authorizing the issuance of \$5,000,000 principal amount of 3% debenture bonds due August 1, 1979. Applicant proposes to sell the debentures to three insurance companies, i. e., Connecticut General Life Insurance Company, Aetna Life Insurance Company and the Connecticut Mutual Life Insurance Company. The proceeds of the sale will be used to finance the construction of a new hydro-electric project at Holyoke, Massachusetts; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 10th

day of August 1949, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49-6106; Filed, July 26, 1949;
8:45 a. m.]

[Docket No. E-6224]

CALIFORNIA ELECTRIC POWER CO.

NOTICE OF APPLICATION

JULY 21, 1949.

Notice is hereby given that the California Electric Power Company of Riverside, California, has filed an application pursuant to section 202 (e) of the Federal Power Act (16 U. S. C. 824 (e)) for authority to export electric energy across the international boundary between the United States and Mexico over 5 different lines, during the period 1949 to 1953, as follows:

Year	Over 3 lines in or near Calexico, Calif., to Mexicali, Mexico	
	Kwh.	Kw.
1949	33,600,000	7,700
1950	37,000,000	8,500
1951	40,300,000	9,250
1952	43,500,000	10,000
1953	46,600,000	10,500

Year	Over 1 line in or near Andrade, Calif., to Algodones, Mexico	
	Kwh.	Kw.
1949	10,200,000	2,200
1950	4,000,000	2,000
1951	1,000,000	400
1952	1,050,000	400
1953	1,100,000	420

Year	Over 1 line in or near Gadsden, Ariz., to San Luis, Mexico	
	Kwh.	Kw.
1949	3,500,000	1,200
1950	3,750,000	1,300
1951	600,000	140
1952	650,000	150
1953	670,000	160

The requested authorization would also supersede the authorization heretofore granted in Docket No. IT-6013, all as more fully appears in the application filed July 18, 1949.

Any person desiring to be heard or to make any protest with reference to said application should, on or before August 9, 1949, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49-6105; Filed, July 26, 1949;
8:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-1104]

NATIONAL DISTILLERIES PRODUCTS CORP.

FINDINGS AND ORDER

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 21st day of July A. D. 1949.

The Detroit Stock Exchange has made application to the Commission pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 for permission to extend unlisted trading privileges to the Common Stock, No. Par Value, of National Distillers Products Corporation, 120 Broadway, New York, New York.

After appropriate notice and opportunity for hearing and in the absence of any request by any interested person for hearing on this matter, the Commission on the basis of the facts submitted in the application makes the following findings:

(1) That this security is registered and listed on the New York Stock Exchange; that the geographical area deemed to constitute the vicinity of the Detroit Stock Exchange is the State of Michigan; that out of a total of 7,977,771 shares outstanding, 95,828 shares are owned by 626 shareholders in the vicinity of the Detroit Stock Exchange; and that in the vicinity of the Detroit Stock Exchange there were effected 293 transactions involving 28,971 shares from April 1, 1948, to April 1, 1949.

(2) That sufficient public distribution of, and sufficient public trading activity in, this security exist in the vicinity of the applicant exchange to render the extension of unlisted trading privileges thereto appropriate in the public interest and for the protection of investors; and

(3) That the extension of unlisted trading privileges on the applicant exchange to this security is otherwise appropriate in the public interest and for the protection of investors.

Accordingly it is ordered, Pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934, that the application of the Detroit Stock Exchange for permission to extend unlisted trading privileges to the Common Stock, No Par Value, of National Distillers Products Corporation be, and the same is, hereby granted.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 49-6111; Filed, July 26, 1949;
8:46 a. m.]

[File No. 7-1105]

HIRAM WALKER GOODERHAM & WORTS,
LIMITED

FINDINGS AND ORDER

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 21st day of July A. D. 1949.

The Detroit Stock Exchange has made application to the Commission pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 for permission to extend unlisted trading privileges to the Common Stock, No Par Value, of Hiram Walker Gooderham & Worts, Limited.

After appropriate notice and opportunity for hearing and in the absence of any request by any interested person for hearing on this matter, the Commission on the basis of the facts submitted in the application makes the following findings:

(1) That this security is registered and listed on the New York Stock Exchange; that the geographical area deemed to constitute the vicinity of the Detroit Stock Exchange is the State of Michigan; that out of a total of 2,886,148 shares outstanding, 179,952 shares are owned by 415 shareholders in the vicinity of the Detroit Stock Exchange; and that in the vicinity of the Detroit Stock Exchange there were effected 173 transactions involving 18,365 shares from April 1, 1948 to April 1, 1949;

(2) That sufficient public distribution of, and sufficient public trading activity in, this security exist in the vicinity of the applicant exchange to render the extension of unlisted trading privileges thereto appropriate in the public interest and for the protection of investors; and

(3) That the extension of unlisted trading privileges on the applicant exchange to this security is otherwise appropriate in the public interest and for the protection of investors.

Accordingly it is ordered, Pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934, that the application of the Detroit Stock Exchange for permission to extend unlisted trading privileges to the Common Stock, No Par Value, of Hiram Walker Gooderham & Worts, Limited, be, and the same is, hereby granted.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 49-6112; Filed, July 26, 1949;
8:46 a. m.]

[File No. 1-1674]

LONG ISLAND RAIL ROAD CO.

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 21st day of July A. D. 1949.

The New York Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, has made application to strike from registration and listing the Guaranteed Refunding Mortgage 4% Bonds due March 1, 1949, Stamped and Unstamped, and the Unified Mortgage Fifty-Year 4% Bonds due March 1, 1949, of The Long Island Rail Road Company.

The reason for striking these securities from registration and listing on this ex-

change that is stated in the application is:

(1) The American Contract and Trust Company, a wholly owned subsidiary of the Pennsylvania Railroad Company, under date of February 1, 1949, announced that at any time on or after February 1, 1949, holders of The Long Island Rail Road Company Guaranteed Refunding Mortgage 4% Bonds and Unified Mortgage Fifty-Year 4% Bonds due March 1, 1949, may receive a sum equivalent to the principal amount of their bonds, together with interest due thereon to maturity, March 1, 1949, by presenting their bonds to the American Contract and Trust Company.

(2) The American Contract and Trust Company has reported to the exchange from time to time the principal amount of bonds purchased and the principal amount of bonds remaining outstanding. The latest report received by the exchange indicates that of the \$39,277,000 principal amount of Guaranteed Refunding Mortgage 4% Bonds and \$659,000 principal amount of Unified Mortgage Bonds listed on the exchange, \$39,099,000 and \$654,000 have been purchased or acquired, leaving outstanding in the hands of the public \$178,000 principal amount and \$5,000 principal amount respectively.

(3) The principal amounts of these securities remaining outstanding, after deducting concentrated holdings, have been so reduced as to make further dealings therein on the exchange inadvisable.

Appropriate notice and opportunity for hearing have been given to interested persons and the public generally. No request has been received from any interested person for a hearing in this matter. The rules of the New York Stock Exchange with respect to striking a security from registration and listing have been complied with.

The Commission having considered the facts stated in the application, and having due regard for the public interest and the protection of investors;

It is ordered, That the application of the New York Stock Exchange to strike the Guaranteed Refunding Mortgage 4% Bonds due March 1, 1949 Stamped and Unstamped and the Unified Mortgage Fifty-Year 4% Bonds due March 1, 1949 of The Long Island Rail Road Company from registration and listing be, and the same is, hereby granted, effective at the close of the trading session on July 29, 1949.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 49-6113; Filed, July 26, 1949;
8:46 a. m.]

[File No. 70-2113]

NORTH AMERICAN CO.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 20th day of July 1949.

The North American Company ("North American"), a registered holding com-

pany, has filed an application-declaration and amendments thereto, pursuant to sections 9, 10 and 12 of the Public Utility Holding Company Act of 1935 ("act") and Rules U-43, U-44 and U-46 promulgated thereunder regarding the following proposed transactions:

North American is presently the sole stockholder of North American Light & Power Company ("Light & Power"), a registered holding company, which is now in process of liquidation and dissolution pursuant to the provisions of a plan under section 11 (e) of the act (Holding Company Act Release No. 7514), whereby North American is to receive the residual assets of Light & Power, including its holdings of all of the presently outstanding common stock of its subsidiary, The Kansas Power and Light Company ("Kansas Power"). Kansas Power pursuant to an order of the Commission dated July 7, 1949 (Holding Company Act Release No. 9213) proposes to merge with its subsidiary, The Kansas Electric Power Company, and in connection therewith proposes to reclassify its presently outstanding 3,800,000 shares of common stock, \$5 par value, all of which are held by Light & Power, into 2,143,158 shares of common stock, \$8.75 par value.

North American proposes to acquire from Kansas Power 2,143,158 shares of new common stock in exchange for the presently outstanding 3,800,000 shares of common stock of Kansas Power to be received by North American from Light & Power. Thereafter, North American proposes to distribute on September 1, 1949, in partial liquidation, to its stockholders of record as of August 2, 1949, 2,143,156½ shares of the new common stock of Kansas Power, on the basis of one share of new common stock of Kansas Power for each four shares of common stock of North American held. The remaining 1½ shares of new common stock of Kansas Power not required for such distribution will be disposed of by the sale for cash by North American of the Scrip Certificates representing such shares.

Fractional shares of new common stock of Kansas Power will not be issued, but in lieu thereof, non-voting Scrip Certificates, in bearer form, will be issued, entitling the holders upon surrender thereof to the Scrip Agent (Bankers Trust Company, New York, New York), on or before August 31, 1950, together with other Scrip Certificates, representing in the aggregate one or more full shares of new common stock of Kansas Power, to receive full shares of such stock. After August 31, 1950 the Scrip Agent will sell all shares of new common stock of Kansas Power held against Scrip Certificates then remaining outstanding. Thereafter until August 31, 1956, the holders of Scrip Certificates, upon surrender thereof to the Scrip Agent, will be entitled to receive their pro rata share of the net cash proceeds of such sale, without interest and less expenses, including any taxes incurred by reason of such sale. After August 31, 1956, the Scrip Certificates will become void and any cash then held by the Scrip Agent against outstanding Scrip Certificates will be paid over to Kansas Power. The proceeds of the sale of any rights re-

ceived by the Scrip Agent on said shares of new common stock, together with dividends accumulated on such shares, will be paid upon delivery, in exchange for Scrip Certificates, and after August 31, 1950, the proceeds of the sale of any rights received on said shares of new common stock, together with dividends accumulated on such shares, will be paid to the holders of Scrip Certificates when surrendered for cash. Any rights which are not salable received by the Scrip Agent on shares of new common stock will be allowed to lapse.

While it is not contemplated that Kansas Power will declare any dividends on its common stock payable to holders of record during the period August 2, 1949, to September 1, 1949, any dividends on its common stock declared by Kansas Power payable either prior to or after September 1, 1949, to stockholders of record at any time during the period from and after the close of business on August 2, 1949, to and including September 1, 1949, will be paid to North American stockholders entitled to receive full shares of new common stock of Kansas Power and to the Scrip Agent, in proportion to their respective holdings.

North American estimates that approximately 2,128,598 shares of new common stock of Kansas Power will be distributed directly to its stockholders and that 14,560 shares of said stock will be deposited with the Scrip Agent against the Scrip Certificates to be issued.

North American proposes to record the 3,800,000 shares of Kansas Power common stock to be received from Light & Power at an amount equivalent to the underlying net asset value of such stock as at the close of the month preceding the date on which North American receives such stock and to reduce its investment in Light & Power by a corresponding amount. North American also proposes to record the 2,143,158 shares of new common stock of Kansas Power, which are to be exchanged for the 3,800,000 shares, at the same carrying value at which it will record the 3,800,000 shares. To reflect the proposed distribution of the new common stock of Kansas Power to its stockholders, North American proposes to charge to Capital Surplus an amount aggregating the total carrying value of its investment in Kansas Power together with expenses of such distribution estimated at \$18,000, exclusive of counsel fees estimated at \$5,000. North American proposes that sufficient Capital Surplus for this purpose will be provided by a transfer from Earned Surplus.

North American states in its application-declaration that it is advised that Kansas Power will file an application to list its new common stock on the New York Stock Exchange. It is contemplated that such listing will become effective for "when distributed" trading on or about July 22, 1949. North American proposes to send to its stockholders prior to such date a copy of Kansas Power's Annual Report for 1948. In addition, North American proposes to send to its stockholders prior to September 1, 1949, appropriate financial statements of Kansas Power, together with a

statement of the proposed dividend policy of Kansas Power.

North American requests that the Commission issue its order herein on or before July 20, 1949, and that such order conform to the requirements of Supplement R of Chapter 1 and section 1808 (f) of Chapter 11 of the Internal Revenue Code, as amended.

The application-declaration having been filed on April 19, 1949, and amendments thereto having been filed on June 20, 1949, July 14, 1949, and July 15, 1949, and notice of said filing having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for a hearing with respect to the application-declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding that the requirements of the applicable provisions of the act and rules promulgated thereunder are satisfied, that no adverse findings thereunder are necessary; and the Commission deeming it appropriate in the public interest and in the interest of investors and consumers that said amended application-declaration, be granted and permitted to become effective forthwith and the Commission deeming it appropriate to grant applicant-declarant's request that the order herein conform to the requirements of Supplement R of Chapter 1 and section 1808 (f) of Chapter 11 of the Internal Revenue Code, as amended:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of said act that said amended application-declaration be, and the same hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

It is further ordered and recited, and the Commission finds, That the proposed exchange by The North American Company of 3,800,000 shares of outstanding Common Stock of The Kansas Power and Light Company (represented by Certificates Nos. CU 35, CU 48, CU 59, CU 62, CU 64, CU 66, CU 67, CU 83 and CU 84) for 2,143,158 shares of new Common Stock of that company and the proposed disposition on September 1, 1949, of such 2,143,158 shares of new Common Stock of The Kansas Power and Light Company (out of or represented by Certificate No. Temporary 1) by The North American Company either through the transfer and distribution of such shares to its stockholders or the transfer and deposit thereof with Bankers Trust Company, New York, New York, as Scrip Agent, against the issue of Scrip Certificates in respect of shares of the new Common Stock of The Kansas Power and Light Company and the transfer and distribution of such Scrip Certificates by The North American Company to its stockholders in lieu of fractional shares of new Common Stock of The Kansas Power and Light Company and the surrender of such Scrip Certificates by the holders thereof in exchange for deposited shares of such new Common Stock and the sale by The North American Company of Scrip Certificates representing 1½ shares of such stock, all as authorized or permitted by

this order, are necessary or appropriate to the integration or simplification of the holding company system of which The North American Company is a member and are necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[F. R. Doc. 49-6114; Filed, July 26, 1949;
8:47 a. m.]

[File Nos. 54-176, 59-10]

NORTH AMERICAN CO. ET AL.

SUPPLEMENTAL FINDINGS AND ORDER APPROVING AMENDED PLAN AND MODIFYING PRIOR ORDER

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C. on the 20th day of July 1949.

In the matter of the North American Company and its subsidiary companies, respondents, File No. 59-10; in the matter of The North American Company, Union Electric Company of Missouri, West Kentucky Coal Company, File No. 54-176.

The North American Company ("North American"), a registered holding company, and its subsidiaries, Union Electric Company of Missouri ("Union"), a public utility company and also a registered holding company, and West Kentucky Coal Company ("West Kentucky"), a non-utility company, having filed a plan (File No. 54-176) pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 ("act"), designed to effect compliance with the provisions of section 11 (b) of the act by providing for the transfer of a portion of the properties of West Kentucky to Union as a capital contribution by North American and the distribution of its holdings of West Kentucky stock by North American to its stockholders; and

The Commission having on April 14, 1942, entered an order (File No. 59-10) under section 11 (b) (1) of the act directing North American to sever its relationship with West Kentucky by disposing of its direct and indirect ownership, control and holding of securities issued and properties owned, controlled or operated by West Kentucky; and

The applicants having requested that the Commission's aforesaid order of April 14, 1942, be modified so as to permit consummation of the transactions proposed in connection with such plan; and

Public hearings having been held after appropriate notice, the Commission having considered the record and having issued its findings and opinion on June 24, 1949, finding said plan, if modified in certain respects, to be necessary to effectuate the provisions of section 11 (b) of the act and to be fair and equitable to the persons affected thereby and finding that the aforesaid order of April 14, 1942, may appropriately be modified as requested by the applicants; and

Applicants, on July 13, 1949, having filed an Amended Plan containing the

modifications suggested by the Commission in its findings and opinion of June 24, 1949, and having requested that the Commission reserve jurisdiction to enter such other or further orders conforming to the requirements of Supplement R of Chapter 1 and section 1808 (f) of Chapter 11 of the Internal Revenue Code, as amended, as may appear to the Commission to be appropriate;

It is found, in accordance with said findings and opinion dated June 24, 1949, that said Amended Plan is necessary to effectuate the provisions of section 11 (b) of the act, and fair and equitable to the persons affected thereby, and that the Commission's order dated April 14, 1942, should be modified to the extent necessary to permit consummation of the transactions proposed in said Amended Plan.

It is ordered, Pursuant to section 11 (e) of the act, that said Amended Plan be, and it hereby is, approved, effective forthwith, subject to the conditions specified in Rule U-24 and to the following additional terms and conditions:

1. That this order shall not be operative to authorize the consummation of the proposed transactions unless (a) a list of nominees for the new board of directors of West Kentucky is submitted to the Commission at least 10 days prior to the proposed distribution of West Kentucky stock by North American to its stockholders and (b) copies of the most recent West Kentucky income statement and balance sheet, per books, and pro forma giving effect to the transactions proposed in the Amended Plan, together with a comparative income and surplus statement for the years 1940 through 1948 are furnished by North American to its stockholders at the time the West Kentucky stock is distributed.

2. That jurisdiction is generally reserved to the Commission to entertain such further proceedings, to make such supplemental findings and to take such further action as it may deem appropriate in connection with said Amended Plan, the transactions incident thereto and the consummation thereof, and to take such further action as it may deem necessary or appropriate to effectuate the provisions of sections 11 (b) and 13 of the act; and that jurisdiction is specifically reserved to consider and determine the following matters:

(a) The reasonableness and appropriate allocation of all fees, expenses, and other remuneration paid or to be paid in connection with said Amended Plan and the transactions incident thereto;

(b) The entry of such other or further orders as may be appropriate, upon supplemental application, containing such recitals or granting such other relief as may be warranted under Supplement R of Chapter 1 and section 1808 (f) of Chapter 11 of the Internal Revenue Code, as amended.

It is further ordered, That the Commission's order dated April 14, 1942, be, and the same hereby is, modified to the extent necessary to permit consummation of the transactions proposed in said Amended Plan, subject to the reservation of jurisdiction in paragraph 2 above set forth.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 49-6115; Filed, July 26, 1949;
8:47 a. m.]

UNITED STATES MARITIME COMMISSION

PACIFIC TRANSPORT LINES, INC.

NOTICE OF HEARING

Pacific Transport Lines, Inc.; application for operating-differential subsidy (Trade Route 29, Service 2) under Title VI, Merchant Marine Act, 1936.

Notice is hereby given that a public hearing will be held at San Francisco, California, beginning on October 17, 1949, before an examiner of the Commission's Office of Trial Examiners, upon an application dated June 16, 1949, of Pacific Transport Lines, Inc., under Title VI of the Merchant Marine Act, 1936, as amended, for financial aid in the operation of freight vessels in the foreign commerce of the United States on Service 2 of Trade Route No. 29 (between California ports and the Far East), as described in the Commission's report of Essential Foreign Trade Routes of the American Merchant Marine, issued May 1949.

The purpose of the hearing is to receive evidence relevant to determinations which the Commission is required, after hearing, to make pursuant to the provisions of section 605 (c) of the Merchant Marine Act, 1936, as amended.

The hearing will be conducted pursuant to the Commission's rules of procedure (12 F. R. 6076).

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) desiring to be heard at such hearing are requested to notify the Commission accordingly on or before August 15, 1949. The time and place of the hearing will be announced by written notice to the persons making request to appear and be heard.

By order of the United States Maritime Commission.

Dated: Washington, D. C., July 22, 1949.

[SEAL]

R. L. McDONALD,
Assistant Secretary.

[F. R. Doc. 49-6117; Filed, July 26, 1949;
8:50 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 13490]

MAX MAXIMILIAN

In re: Trust under the Will of Max Maximilian, deceased. File No. D-23-4088-G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Henry (Heinrich) Maximilian and Miss Franziska Schloemer (Schloemer), whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the domiciliary personal representatives, heirs, next-of-kin, legatees and distributees, names unknown, of Gertrude Maximilian, deceased, of Jean Denz, deceased, and of Mrs. Peter Maximilian, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, in and to the trust created under the will of Max Maximilian, deceased, presently being administered by the Harris Trust and Savings Bank, 115 West Monroe Street, Chicago, Illinois, as Trustee,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the persons identified in subparagraphs 1 and 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 6, 1949.

For the Attorney General.

[SEAL]

DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-6130; Filed, July 26, 1949;
8:48 a. m.]

[Vesting Order 13562]

ANNA BOECK ET AL.

In re: Interest in real property, property insurance policies and claim owned by Anna Boeck and others.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the persons whose names and last known addresses appear below are residents of Germany and nationals of a designated enemy country (Germany);

Names and Last Known Addresses

Anna Boeck, Rathause Strasse 13, Wanne, Eichel, Germany.

Ottile Vorwerk, also known as Othella Vorwerk, Leer, Ostfriesland, Reimer Strasse 6, Germany.

Hans Bormann, Lindner Strasse 15, Dortmund, Lindenhorst, Germany.

Emma Bormann, Lindner Strasse 15, Dortmund, Lindenhorst, Germany.

2. That the property described as follows:

a. An undivided three-fifths ($\frac{3}{5}$ ths) interest in real property, situated in the City and County of Milwaukee, State of Wisconsin, particularly described in Exhibit A, attached hereto and by reference made a part hereof, together with all hereditaments, fixtures, improvements and appurtenances thereto, and any and all claims for rents, refunds, benefits or other payments arising from the ownership of such property,

b. All right, title and interest of the persons named in subparagraph 1 hereof, in and to the following property insurance policies:

1. Fire and Extended Coverage Insurance Policy, in the amount of \$4,000.00, issued by Buffalo Insurance Company, 451 Main Street, Buffalo, New York, which policy expired April 6, 1949, and insured the real property described in Exhibit A, attached hereto, as Parcel 1, and known as 2755 North 12th Street, together with any and all extensions and renewals thereof,

2. Plate Glass Insurance Policy, Number 9372, issued by Wisconsin Plate Glass Company, Juneau, Wisconsin, which policy expires November 16, 1949, and insures the real property described in Exhibit A, attached hereto, as Parcel 1, and known as 2755 North 12th Street, and

3. Fire and Extended Coverage Insurance Policy, in the amount of \$1,100.00, issued by Michigan Fire & Marine Insurance Company, Greater Penobscot Building, Detroit, Michigan, which policy expires November 18, 1950, and insures the real property described in Exhibit A, attached hereto, as Parcel 2, and known as 1803 North 19th Lane.

c. That certain debt or other obligation owing to the persons named in subparagraph 1 hereof by Martha A. Bormann, 3739A North 16th Street, Milwaukee, Wisconsin, arising out of their share of the rents collected from the real property described in subparagraph 2-a hereof, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2-a hereof, subject to recorded liens, encumbrances and other rights of record held by or for persons who are not nationals of designated enemy countries, and

There is hereby vested in the Attorney General of the United States the property described in subparagraphs 2-b and 2-c hereof,

All such property so vested to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 18, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

Parcel 1. Lot numbered Thirteen (13) in Block numbered Four (4) in Uphams Subdivision of North Two (2) acres of South Eight (8) acres and the North Two (2) acres of the South Five (5) acres of the West Twenty (20) acres of the North West Quarter of Section numbered Seventeen (17), in Township numbered Seven (7), North of Range numbered Twenty-two (22) East, in the Twentieth (20th) Ward of the City and County of Milwaukee, State of Wisconsin.

Parcel 2. The North Twenty-eight (28) feet of the South Two Hundred and Seventy-three (273) feet of Lot number Twenty-three (23), Block number Two Hundred and Nineteen (219), in Hunter's Subdivision, in the Ninth (9th) Ward of the City and County of Milwaukee, State of Wisconsin.

[F. R. Doc. 49-6085; Filed, July 25, 1949; 8:48 a. m.]

[Vesting Order 13563]

YASAKU NAKAMURA

In re: Real property, personal property, and claim owned by Yasaku Nakamura, also known as Y. Nakamura.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Yasaku Nakamura, also known as Y. Nakamura, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows:

a. Real property situated in the county of Lewis, State of Washington,

particularly described in Exhibit A, attached hereto and by reference made a part hereof, together with all hereditaments, fixtures, improvements and appurtenances thereto, and any and all claims for rents, refunds, benefits or other payments arising from the ownership of such property,

b. All that personal property belonging to the person named in subparagraph 1 hereof, including but not limited to one harrow, 1 disc, 1 plow, and various items of household furnishings, located on the real property described in subparagraph 2-a hereof,

c. That certain debt or other obligation owing to the person named in subparagraph 1 hereof by the National Fruit Canning Company, Chehalis, Washington, arising out of his share of the net proceeds from the sale of certain produce grown on the property described in subparagraph 2-a hereof, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2-a hereof, subject to recorded liens, encumbrances and other rights of record held by or for persons who are not nationals of designated enemy countries, and

There is hereby vested in the Attorney General of the United States the property described in subparagraphs 2-b and 2-c hereof,

All such property so vested to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 18, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

All that certain real property situated in Lewis County, State of Washington, described as follows: The South half of the Southwest quarter of the Northwest quarter ($S\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$) of Section three (3), Township thirteen (13) North of Range three (3) West of the Willamette Meridian, and that part of the Southeast quarter of the North-

west quarter (SE¼NW¼) of said Section, lying West of the Chehalis Lumber Company's Logging Railroad right-of-way, except a strip 14 feet in width extending along the West side of said Southeast quarter of the Northwest quarter (SE¼NW¼) used as a road.

[F. R. Doc. 49-6086; Filed, July 25, 1949; 8:48 a. m.]

[Vesting Order 13564]

AUGUSTE EMMA HELENE AND MATHILDE KATARINA BERTHA AUGUSTE OFF

In re: Rights of Auguste Emma Helene Off and Mathilde Katarina Bertha Auguste Off under Insurance Contract. File No. D-28-10236-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Auguste Emma Helene Off and Mathilde Katarina Bertha Auguste Off, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 11,230,314, issued by The Equitable Life Assurance Society of the United States, New York, New York, to Bertha A. M. Off, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 18, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-6131; Filed, July 26, 1949; 8:48 a. m.]

[Vesting Order 13566]

PAULA ARFSTEN

In re: Bank account owned by Paula Arfsten. F-28-9143-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Paula Arfsten, whose last known address is Nieblum, Schleswig-Holstein, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation owing to Paula Arfsten, by Bank of America N. T. & S. A., 660 South Spring Street, Los Angeles 54, California, arising out of a Term Savings Account, account number 6830, entitled Paula Arfsten, maintained at the branch office of the aforesaid bank located at Fullerton, California, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 18, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-6132; Filed, July 26, 1949; 8:48 a. m.]

[Vesting Order 13567]

TAMAKI F. AND SUMIYOSHI ARIMA

In re: Bank accounts owned by and debts owing to Tamaki F. Arima and Sumiyoshi Arima, also known as Sumiyoshi Arima. F-39-17172-E-2/3.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Execu-

tive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Tamaki F. Arima and Sumiyoshi Arima, also known as Sumiyoshi Arima, each of whose last known address is Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the property described as follows:

a. That certain debt or other obligation of Washington Mutual Savings Bank, 1101 Second Avenue, Seattle 1, Washington, arising out of a joint trustee savings account, account number 13817, entitled Sumiyoshi Arima or Tamaki F. Arima as Trustees for Kiyo Arima, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

b. That certain debt or other obligation of Washington Mutual Savings Bank, 1101 Second Avenue, Seattle 1, Washington, arising out of a joint trustee savings account, account number 13967, entitled Sumiyoshi Arima or Tamaki F. Arima as Trustees for Sumisoto Arima, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

c. That certain debt or other obligation owing to Tamaki F. Arima and Sumiyoshi Arima, by Washington Mutual Savings Bank, 1101 Second Avenue, Seattle 1, Washington, arising out of a joint savings account, account number 70792, entitled Sumiyoshi Arima or Tamaki F. Arima, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same, and

d. That certain debt or other obligation owing to Tamaki F. Arima and Sumiyoshi Arima, also known as Sumiyoshi Arima, by Puget Sound Savings & Loan Association, 922 Second Avenue, Seattle 4, Washington, arising out of a Series "A" liquidated savings account, account number 28932, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Tamaki F. Arima and Sumiyoshi Arima, also known as Sumiyoshi Arima, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or other-

wise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 18, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-6133; Filed, July 26, 1949;
8:48 a. m.]

[Vesting Order 13570]

DR. MAX EULE ET AL.

In re: Debts owing to Drs. Max Eule, Ing. von Kreisler and Lotterhos. F-28-22902-C-1, 2, F-28-14933-C-1, 2.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Drs. Max Eule, Ing. von Kreisler and Lotterhos, whose last known addresses are Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation owing to Dr. Max Eule, by Radio Corporation of America, 30 Rockefeller Plaza, New York 20, New York, in the amount of \$199.56, as of June 17, 1949, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Dr. Max Eule, the aforesaid national of a designated enemy country (Germany);

3. That the property described as follows: That certain debt or other obligation owing to Dr. Eule and Dr. Lotterhos, by E. I. du Pont de Nemours and Company, 1007 Market Street, Wilmington, Delaware, in the amount of \$12.98, as of December 31, 1945, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Drs. Max Eule and Lotterhos, the aforesaid nationals of a designated enemy country (Germany);

4. That the property described as follows: That certain debt or other obligation owing to Dr. Lotterhos and Dr. Ing. von Kreisler, by E. I. du Pont de Nemours and Company, 1007 Market Street, Wilmington, Delaware, in the amount of \$72.00, as of December 31, 1945, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Dr. Lotterhos and Dr. Ing. von Kreisler, the aforesaid nationals of a designated enemy country (Germany);

5. That the property described as follows: That certain debt or other obligation of Otto Munk, 41 Park Row, New York 7, New York, in the amount of \$40.05, as of December 31, 1945, represented on his books as an accounts payable in the name of Lotterhos-Eule, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Drs. Max Eule, Ing. von Kreisler and Lotterhos, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

6. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 18, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-6134; Filed, July 26, 1949;
8:48 a. m.]

[Vesting Order 13575]

ANNA SCHNORRENBERGER

In re: Bank accounts owned by Anna Schnorrenberger. D-28-796-E-4, D-28-796-E-5, D-28-796-E-6.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Anna Schnorrenberger, whose last known address is Koenigsmuehle, Gau-Odernheim Rheinhessen, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

a. That certain debt or other obligation owing to Anna Schnorrenberger, by The Bowery Savings Bank, 110 East 42nd Street, New York 17, New York, arising out of a Savings Account, account number 1,412,217, entitled Anna Schnorrenberger, maintained at the branch office of the aforesaid bank located at 130 Bowery and Fifth Avenue, New York, New York, and any and all rights to demand, enforce and collect the same,

b. That certain debt or other obligation owing to Anna Schnorrenberger, by Central Savings Bank in the City of New York, 2100 Broadway, New York 23, New York, arising out of a Savings Account, account number 963,824, entitled Anna Schnorrenberger, maintained at the branch office of the aforesaid bank located at Fourth Avenue and 14th Street, New York 3, New York, and any and all rights to demand, enforce and collect the same,

c. That certain debt or other obligation owing to Anna Schnorrenberger, by The Seamen's Bank for Savings in the City of New York, 74 Wall Street, New York 5, New York, arising out of a Savings Account, account number 735,712, entitled Anna Schnorrenberger, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 18, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-6135; Filed, July 26, 1949;
8:48 a. m.]

[Vesting Order 11718, Amdt.]

MANTARO OHASHI ET AL.

In re: Rights of Mantaro Ohashi, et al. under Insurance Contract. File No. F-39-87-H-1.

Vesting Order No. 11,718, dated July 27, 1948, is hereby amended to read as follows:

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mantaro Ohashi and Chiye Ohashi, whose last known address is Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Mantaro Ohashi, who there is reasonable cause to believe are residents of Japan, are nationals of a designated enemy country (Japan);

3. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 7886493, issued by the New York Life Insurance Company, New York, New York, to Mantaro Ohashi, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof and the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Mantaro Ohashi, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 18, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-6136; Filed, July 26, 1949;
8:49 a. m.]

